

James E. Cecchi  
Caroline F. Bartlett  
CARELLA, BYRNE, CECCHI,  
OLSTEIN, BRODY & AGNELLO, P.C.  
5 Becker Farm Road  
Roseland, New Jersey 07068  
(973) 994-1700

Jonathan Shub  
Scott A. George  
SEEGER WEISS LLP  
1515 Market Street, Suite 1380  
Philadelphia, Pennsylvania 19102  
(215) 564-2300

Paul M. Weiss  
Richard J. Burke  
Julie D. Miller  
COMPLEX LITIGATION GROUP, LLC  
513 Central Avenue  
Suite 300  
Highland Park, Illinois 60035  
(847) 433-4500

*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

LYDIA FABEND,

Plaintiff,

v.

L'OREAL USA, INC., LANCÔME, INC.,  
LANCÔME LUXURY PRODUCTS, LLC,

Defendants.

Civil Action No.

**COMPLAINT and  
DEMAND FOR JURY TRIAL**

Plaintiff, by her attorneys, on behalf of herself and all others similarly situated, makes the following allegations pursuant to the investigation of her counsel and based upon information and belief, except as to allegations specifically pertaining to herself and her counsel, which are based on personal knowledge.

## **NATURE OF THE ACTION**

1. The search for the elusive waters of the “Fountain of Youth” has tempted those seeking to restore youth and beauty for ages. Indeed, as the story goes, in 1513, the great explorer Juan Ponce De Leon searched high and low for the “Fountain of Youth” – only to find Florida instead. In the 1800s, “snake oil” salesmen infamously ranged the West selling tonics that claimed to cure every ill, including aging. Today, the search for a youth potion continues and, like modern-day snake oil salesmen, Defendants<sup>1</sup> L’Oreal USA, Inc. through its Luxury Division brand, Lancôme (hereinafter “L’Oreal” or “Lancôme”), Lancôme, Inc., and Lancôme Luxury Products, LLC (collectively “Defendants”) prey on consumers’ fundamental fear of aging and their eternal hope that products exist which can eliminate the signs of aging and effectively turn back time.

2. In fact, L’Oreal profits handsomely by falsely claiming that Lancôme’s wrinkle cream products, including those from the Luxury Collections Visionnaire, Genifique, High Resolution, Renergie Lift Volumetry, and Absolue Precious Cells (collectively “Luxury Wrinkle Creams”) have age-negating effects on human skin. For example, among other things, Lancôme specifically promises that:

---

<sup>1</sup> As the precise corporate structure of Defendants is unclear at the time of filing, Plaintiff reserves the right to add additional Defendants should it become necessary as discovery progresses. In addition, because the products themselves reference Lancôme Luxury Products, LLC, while the advertisements and websites do not, the use herein of one of the Defendants shall not be deemed to exclude any other. The Defendants have made it impossible for a consumer to determine which entity in fact produces, distributes and sells the various Luxury Wrinkle Creams.

- Visionnaire is the “1<sup>st</sup> skincare [product] capable of fundamentally re-creating more beautiful skin . . . it acts biologically on the 12 key targets of aging”;
- Genifique Youth Activating Concentrate “boosts the activity of genes and stimulates the production of youth proteins”;
- High Resolution “helps boost the synthesis of the three natural skin fillers – collagen, hyaluronic acid, and elastin”; High Resolution Night Refill 3X™ “has triple antiwrinkle power that refills wrinkles in one hour”;
- Renergie’s “[l]ifting and contouring properties combine to firm and reshape the face . . . Skin Truth: skin cells need to communicate with each other constantly. This communication is key to maintaining the support structure that keeps skin looking youthful. This cutting-edge formula features the unique GF-Volumetry™ complex, shown to help support cellular communication”; the product will “lift the eyes; erase wrinkles and fine lines”; and “[v]isibly lift, firm and reshape facial contours, see the facial angle visibly improved by 8 degrees.”; and
- Absolue’s Pro-Xylane™, “a patented scientific innovation – has been shown to improve the condition around the stem cells and stimulate cell regeneration to reconstruct skin to a denser quality.”; “it’s proven: within 6 days skin recovers the epidermis of a young skin.”

3. Unfortunately, none of these promised results (or any of the others detailed below) are supported by competent and reliable scientific evidence. L’Oreal knows this or should know this, yet nonetheless saturates its Lancôme sales and marketing materials, print and television advertisements, internet websites and product brochures with indicia of scientific reliability. Indeed, Lancôme refers to its scientific research as “hyperscience.”

4. As explained more fully herein, Lancôme has made, and continues to make, deceptive and unsubstantiated claims and promises to consumers about the efficacy of its skin-care products in a pervasive, nation-wide marketing scheme that

falsely touts the benefits of its products. In reality, these products do not live up to the claims made by Lancôme, despite Lancôme's repeated promises that the results are supported by reliable clinical and/or scientific research.

5. In fact, no well-designed and scientifically reliable study exists to support the claims made by Lancôme. As a result, Lancôme's marketing pitch is the same as that of the quintessential snake-oil salesman—Lancôme dupes consumers with false promises of results it knows it cannot deliver, and does so with one goal in mind—reaping enormous profits.

6. Indeed, the only reason a customer would purchase the high-priced Luxury Wrinkle Creams sold by Lancôme instead of much lower-priced moisturizers, which are readily available, is to obtain the unique results that Lancôme promises. Upon information and belief, other, lower-priced brands manufactured and distributed by L'Oreal contain substantially the same ingredients as those touted by Lancôme--the only difference being the false promises made by Lancôme to deceive consumers into paying significantly more for the higher priced Luxury Wrinkle Creams.

7. A direct effect of this pervasive and deceptive marketing campaign is that consumers across the country, including Plaintiff and the proposed Class, purchased skin-care products for exorbitant prices that do not, and cannot, provide the results promised.

8. Because each of the Luxury Wrinkle Cream collections touts some unique "scientific" breakthrough or skin care benefit, Lancôme's false statements

about the efficacy of a particular product are equally applicable to each of the products within the specific collection. For example, for each of the Genifique products (serum, cream serum, eye cream, and night cream) (“Genifique Products”) Lancôme promises that its unique formula will “boost the activity of genes and stimulate the production of youth proteins” resulting in “visibly younger skin in 7 days.” According to Lancôme, these claims are based upon the purported discovery of a formula shown in “in-vitro tests on genes” to “boost genes' activity.” Because each of the Genifique Products contains essentially the same formula, and because Lancôme repeats the same promises for each, the misleading claims touting the supposed benefits are equally applicable to all of the Genifique Products. The same holds true for the Renergie, High Resolution, and Absolue collections. (The Visionnaire collection currently has only one product.)

9. Plaintiff seeks relief in this action individually and as a class action on behalf of all purchasers in the United States of at least one of the Luxury Wrinkle Creams (“the Class”) at any time from the date of product launch for each of the Luxury Wrinkle Creams to the present (the “Class Period”) for unjust enrichment, breach of express warranty, violation of the New Jersey Consumer Fraud Act, N.J.S.A. § 58:8-1, *et seq.*; violations of the California Consumer Legal Remedies Act (“CLRA”), Cal. Civ. Code §§ 1750, *et seq.*; the California Unfair Competition Law, Cal. Bus. & Prof. Code §17200, *et seq.*, and the California False Advertising Law, Cal. Bus. & Prof. Code § 17500, *et seq.*, and for violation of the Consumer Fraud Laws of the various states. Pending completion of discovery, Plaintiff may seek

leave to amend the Class definitions. Moreover, Plaintiff seeks relief individually and on behalf of a subclass of residents of her home state of California under the false advertising and unfair business practice laws of that state.

### **THE PARTIES**

10. Plaintiff Lydia Fabend is a citizen of the State of California, residing in Marin County. Plaintiff Fabend purchased Lancôme's High Resolution and Renergie products from Macy's department store in Union Square, San Francisco, California, during the Class Period for personal use. Plaintiff Fabend saw and read Lancôme's misrepresentations as described more fully herein, including Lancôme's many false and misleading scientific-based product claims. Plaintiff Fabend would not have purchased Lancôme's High Resolution and Renergie products had Lancôme not made such false and deceptive claims and instead disclosed the true nature of its products.

11. Defendant L'Oreal U.S.A., Inc., is a Delaware corporation with its principal place of business in Berkeley Heights, New Jersey. L'Oreal has manufacturing facilities in Clark, NJ, Franklin, NJ and Piscataway, NJ. L'Oreal has distribution facilities in Cranbury, NJ, Dayton, NJ and South Brunswick, NJ. L'Oreal also has research facilities in Clark, NJ and a consumer evaluation center in Berkeley Heights, NJ.

12. Defendant Lancôme, Inc. is a Delaware corporation.

13. Defendant Lancôme Luxury Products, LLC is a limited liability corporation.

### **JURISDICTION AND VENUE**

14. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) because there are more than 100 class members and the aggregate amount in controversy exceeds \$5 million exclusive of interest, fees, and costs, and at least one Class member is a citizen of a state different from Defendant.

15. Pursuant to 28 U.S.C. § 1391, venue is proper in this Court because Defendants reside in this District and a substantial part of the events, omissions and acts giving rise to the claims herein occurred in this District. Defendants distributed, advertised and sold the Luxury Wrinkle Creams, which are the subject of the present complaint, in this District.

### **GENERAL FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

#### **Lancôme's Misleading Efficacy Claims Based on Purported Scientific Tests and Studies**

16. A central theme of Lancôme's deceptive marketing campaign, which permeates throughout its print, television and web-based advertisements and product literature, is that its products, and the results promised by Lancôme, are supported by vigorous scientific research and clinical study. As described in more detail below, Lancôme's marketing campaign highlights the purported years of scientific research, the number of patents, clinical studies, dermatological approval, lab research, and in-vitro testing that, according to Lancôme, supports the promised results.

17. In fact, while such claims of scientific reliability provide Lancôme with an increased level of credibility among unsuspecting consumers, and therefore

increased sales, no such reliable scientific evidence exists to support the promises made by Lancôme. Instead, the purported medical and scientific data is simply part and parcel of Lancôme's deceptive advertising campaign.

18. Despite Lancôme's admission in its Code of Business Ethics (2007) that "[o]verselling our products by making inflated or exaggerated claims for them is dishonest," Lancôme nonetheless turns a blind eye to this standard for increased profits.

19. By promising specific results and promoting sham scientific tests, so-called clinical studies, unspecified "patents," along with other indicia of scientific credibility, Lancôme's advertising transcends the realm of mere puffery and becomes actionable as deceptive or fraudulent.

20. By way of example, Lancôme claims that many of its promised results are supported by "in-vitro testing," which Lancôme knows sounds scientifically reliable to the average consumer.

21. In fact, "in-vitro" is Latin for "in glass" and it means that the results are based on lab testing rather than "in vivo" testing on people. In other words, "in-vitro" results are based on ingredient testing on skin cells in a test tube or petri dish, which means that the ingredients' ability to penetrate to the deeper levels of the skin cannot be assessed. In most instances, "in-vitro" results do not translate to human skin. Lancôme is well aware of this reality.

22. One example of an ingredient with great "in-vitro" results that does not translate to skin benefits is the family of peptides. In "in vitro" tests, peptides



have been shown to boost collagen production, reverse skin damage, lighten discoloration and much more. While Lancôme touts these “in-vitro” results, it fails to disclose that most peptide molecules are too large to penetrate the skin—which means they can’t possibly deliver the in-lab results in real life. Even if the peptide is one that can possibly penetrate to deeper layers of the skin, the degree of penetration is significantly less in actual use by consumers than the “in vitro” test results provide. Lancôme is aware of this circumstance, yet does not disclose it to consumers.

23. Lancôme’s product marketing strategy also includes references to nonsensical “clinical” studies or trials and consumer “tests.” Lancôme knows, because according to its product brochures for the Luxury Wrinkle Creams it also conducts psychological research, that average consumers are swayed by such indicia of scientific credibility and Lancôme takes full advantage to profit on consumers’ gullibility.

24. By way of example, Lancôme makes the following product claims, among others, on its respective product marketing materials:

- Genifique:
  - “Clinical study on skin proteins associated with young skin – France”;
  - “Based on consumer evaluations in a clinical study, which also consists of expert evaluations.”
- Renergie:
  - “Based on results from consumer test of 50 women aged from 45 to 65 years old – France.”

- Absolue:
  - “Based on results from a consumer test on women with UV-damaged skin”;
  - “Reduction in crow’s feet and laugh lines in a 4-week clinical evaluation on UV-damaged skin.”
- Visionnaire:
  - “self-assessment of the total of all consumers tested at 4 and 6 weeks.”
  - “clinical study”
- High Resolution:
  - “In-vitro testing on rice peptides and alfalfa extract shows production of new collagen within 48 hours”

25. Such “clinical” studies or “tests” do not support the claimed results because the data is not sufficiently competent or reliably objective such that the purported results are reproducible and will be representative among all consumers.

26. The flaws in Lancôme’s studies and tests include but are not limited to (1) studies with too few participants to yield results that are scientifically or statistically significant, and (2) tests where participants are cherry picked and/or where results are selectively determined such that Lancôme is able to manipulate the results to support the purported benefits of the Luxury Wrinkle Creams.

27. Moreover, Lancôme does not provide consumers with enough information about its purported studies so that consumers can objectively evaluate their reliability.

28. Lancôme uses footnotes or asterisks throughout its marketing materials for all five Collections at issue in this lawsuit to deceptively disclaim the results of a particular product benefit.

29. For example, in its High Resolution product brochure Lancôme states that High Resolution Eye Refill-3X™ Triple Action Renewal Anti-Wrinkle Eye Cream “Visibly refills wrinkles and crow’s feet\* and helps re-plump skin for renewed smoothness.” However, in microscopically small print at the bottom of the brochure, Lancôme incoherently attempts to qualify the foregoing wrinkle claim stating “\*Visibly refill [sic] the appearance of wrinkles.” Lancôme provides no explanation as to how High Resolution Eye Refill-3X™ Triple Action Renewal Anti-Wrinkle Eye Cream purports to refill *the appearance* of a wrinkle, instead of the wrinkle itself, as is claimed in much larger, legible typeface.

30. Lancôme’s repeated and pervasive references to “clinical” studies or trials, consumer “tests” and “in vitro” tests cause consumers to be deceived and confused and do not remedy the misleading nature of Lancôme’s efficacy claims.

**Lancôme’s Improperly Advertises that its Products are Protected by Patents**

31. Another aspect of the deceptive advertising scheme employed by Lancôme to market its Luxury Wrinkle Creams is its claims that some of the products are patented.

32. For example, in its brochure for Genifique, Lancôme claims: “The Innovation - 10 Years of Research - 7 International Patents.”

33. The message conveyed to consumers is that Lancôme's extensive 10-years of research has led to the development of some new and unique ingredient that Lancôme has patented, and that this ingredient is what makes Genifique distinct; that is, what enables it to boost the activity of genes. However, it is impossible for the consumer to know exactly what is patented since there is no patent information or patent number(s) anywhere on the product or the product's packaging. In fact, upon information and belief, no U.S. patents exist for Genifique.

34. Moreover, even Lancôme is unsure of the number of international patents it possesses for Genifique. In the May 2012 issue of Glamour magazine, a Lancôme advertisement for Genifique claims that it is internationally patented. An asterisk refers to very small print which states "patented in the EU, France, Japan, Russia, and Mexico. US patent pending." According to this advertisement, there are only 5, not 7, "international" patents for Genifique. Of course, no one can tell what the patents are actually for since there are no numbers identifying them.

35. Lancôme convinces consumers that Genifique warrants its high price tag through misleading claims that its unique ingredient is protected by patents and therefore not available in any other product. But, upon information and belief, none of the ingredients in Genifique are unique. All of the ingredients in Genifique are present in other cosmetic products.

36. Lancôme makes similar unfounded statements with respect to Visionnaire [LR 2412 4%] Advanced Skin Corrector, claiming that "[LR 2412] is

such a visionary molecule that it is now protected by 20 International Patents!”

Lancôme further claims in the question and answer section on its website:

Question: “Why did it take so long to develop [LR 2412]?”

Answer: These 12 years represent the sum of the time it took to create 20 compounds, all of which belong to the jasmonate family, and to carry out formulation trials to test their stability, safety and performance. The final result of this long development process is a single molecule that is now protected by 20 International patents.

37. Contrary to these claims, the package insert for Visionnaire, which consumers receive only after purchasing the product, states only that a patent is “pending” and conveniently omits Lancôme’s claim of having “20 International Patents!”

38. Once again, Lancôme’s claims of patent protection are intended to deceive consumers and cause them to purchase what they believe is a unique product providing unique results.

39. Lancôme engages in similar deceptive marketing of patents for Absolue, claiming that it contains “Pro-Xylane™, a patented scientific innovation.”

40. The use of the word “patent” by Lancôme in its advertising materials is not only deceptive and misleading to the consumer, but also constitutes false marketing under the Patent Laws. According to 35 U.S.C. 292(a)

(a) Whoever, without the consent of the patentee, marks upon, or affixes to, or uses in advertising in connection with anything made, used, offered for sale, or sold by such person within the United States, or imported by the person into the United States, the name or any imitation of the name of the patentee, the patent number, or the words "patent," "patentee," or the like, with the intent of counterfeiting or imitating the mark of the patentee, or of deceiving the public and inducing them to believe that the thing was made,

offered for sale, sold, or imported into the United States by or with the consent of the patentee; or **Whoever marks upon, or affixes to, or uses in advertising in connection with any unpatented article the word "patent" or any word or number importing the same is patented, for the purpose of deceiving the public;** or Whoever marks upon, or affixes to, or uses in advertising in connection with any article the words "patent applied for," "patent pending," or any word importing that an application for patent has been made, when no application for patent has been made, or if made, is not pending, for the purpose of deceiving the public - Shall be fined not more than \$500 for every such offense.

Emphasis added.

41. In sum, touting that its research and scientific innovation has led to the patenting of its products is simply part and parcel of Lancôme's deceptive scheme to convince consumers that its products are worth their price tag.

#### **Lancôme's Pervasive and Misleading Marketing Campaign**

42. Lancôme's pervasive false and misleading national marketing campaign includes the dissemination of deceptive advertising through a variety of mediums including, but not limited to, internet, television and print media, as well as in-person product presentations and demonstrations by Lancôme-trained beauty consultants and sales people. Some of the same deceptive and misleading statements are also printed on the product boxes.

43. Regardless of where Plaintiff and the Class purchased the Luxury Wrinkle Cream products (*i.e.*, on-line directly from Lancôme, in a department store at the Lancôme counter, or from third-party retailers), they were exposed to Lancôme's pervasive deceptive and misleading advertising messages and material omissions regarding the efficacy promises of the Luxury Wrinkle Cream collections.

Indeed, no reasonable consumer would accidentally purchase a \$100 jar of wrinkle cream without some “knowledge” of what the product claims to do.

### **Internet Marketing**

44. Lancôme's internet marketing includes, among other things, video presentations, statistical data, and question and answer information on its own website, Lancôme-usa.com. In addition, Lancôme's products and advertisements appear on numerous third-party websites including, but not limited to, Sephora.com, Macys.com, Amazon.com, Neimanmarcus.com, Nordstrom.com, facebook.com, and hsn.com. In addition, many of its commercials and promotional videos are readily accessible on youtube.com. Each of these sources provides consumers access, 24 hours a day, 7 days a week, to Lancôme's deceptive advertising including Lancôme's purported supporting “scientific” or “clinical” data.

### **Print Media and Sales Brochures**

45. Lancôme also heavily markets its Luxury Wrinkle Creams in print media, including the placing of advertisements in such widely circulated magazines as Glamour, Cosmopolitan, Vogue, Elle, and Marie Claire. Lancôme specifically targets print advertising of the Luxury Wrinkle Creams in magazines with readership in the 25-to-60 age bracket.

46. The specific dates and places of each of Lancôme's advertisements are in the possession of Defendants. In or about late 2010 to early 2011, Plaintiff Fabend purchased Lancôme's products based upon information provided by Lancôme in magazine advertisements, including Glamour magazine, among others,

and upon information provided by in-store sales persons at the Lancôme counter at the Union Square San Francisco Macy's department store.

47. In addition, Lancôme provides sales brochures for distribution at, among other places, malls and department stores, which provide much of the same information available online, as well as which direct customers to visit Lancôme.com for more product information.<sup>2</sup> The following are sample brochures, which were made available at, among other places, the Lancôme counter at the Nordstrom department store in Short Hills, New Jersey:

**Your Skincare POWER SYSTEM™**

**Lift. Firm. Reshape. See Youthful Contours Return.**

**Activate with:**

**GÉNIFIQUE**  
YOUTH ACTIVATING CONCENTRATE

Youth is in your genes. Reactivate it.<sup>1</sup>  
Discover the skin you were born to have.

Génifique Concentrate gives visibly younger skin in just 7 days. Skin looks as if it's from within, feels cushiony soft and velvety to the touch.

**The Innovation**  
10 Years of Research – 7 International Patents  
At the very origin of your skin's youth: your genes. Genes produce specific proteins that diminish with age. Skin appears dull, uneven and not as smooth as it once was.

Génifique Concentrate contains ingredients shown to boost genes' activity<sup>2</sup> and stimulate the production of youth proteins.<sup>3</sup> Skin looks breathtakingly radiant, refined and perfectly smooth.

**Clinically Proven: See Visibly Younger Skin in Just 7 Days\***

To learn more about Génifique, go to [lancome.com](http://lancome.com)

\* Activated skin is 10% firmer.  
\*\* In vitro study on genes.  
\*\*\* Clinical study on skin concerns associated with aging skin - France.  
† Based on consumer evaluations in a 12-week study, which also compared 3 expert evaluations.

**MOISTURIZE**

**RÉNERGIE LIFT VOLUMÉTRIE**  
VOLUMETRIC LIFTING AND RESHAPING CREAM SPF 15  
NORMAL TO DRY/SENSITIVE SKIN

**RÉNERGIE LIFT VOLUMÉTRIE EYE**  
VOLUMETRIC LIFTING AND RESHAPING EYE CREAM

**Moisturize with:**

**RÉNERGIE LIFT VOLUMÉTRIE**  
VOLUMETRIC LIFTING AND RESHAPING CREAM SPF 15  
Rénergie Lift Volumetry helps visibly lift, firm and reshape facial contours. Cheeks appear re-plumped and the jaw line looks refined. Wrinkles appear reduced.\* (Also available in a nighttime formula.)

**Skin Truth**  
Growth factors are cellular messengers essential to maintaining skin's support structure. Key skin elements that play a role in skin firmness and brightness diminish with age. The skin begins to slacken. Cheeks lose plumpness and appear hollow, smile lines and crow's feet deepen, the jaw line appears to droop.

**The Innovation**  
For the 1<sup>st</sup> time from Lancôme, new GF-Volumetry™ complex helps support cellular communication.\*\* See a new dimension in lifting for a Volumetric Result.

**RÉNERGIE LIFT VOLUMÉTRIE EYE**  
VOLUMETRIC LIFTING AND RESHAPING EYE CREAM  
It helps visibly lift, firm and reshape the delicate eye contour. Wrinkles and crow's feet appear reduced.

To learn more about Rénergie Lift Volumetry, go to [lancome.com](http://lancome.com)

\* Based on results from a consumer test of 30 women aged from 40 to 60 years old - France.  
\*\* In vitro studies.

<sup>2</sup> When consumers in the United States visit Lancôme.com, they are automatically re-directed to Lancôme-usa.com.



Your Skincare **POWER SYSTEM™**

## See Visibly Younger Skin in Just 7 Days!

Activate with:

**GÉNIFIQUE YOUTH ACTIVATING CONCENTRATE**

Youth is in your genes. Reactivate it.\*  
Discover the skin you were born to have.

Génifique Concentrate gives visibly younger skin in just 7 days. Skin looks as if it lit from within, feels cushiony soft and velvety to the touch.

**The Innovation**  
10 Years of Research – 7 International Patents  
At the very origin of your skin's youth: your genes. Genes produce specific proteins that diminish with age. Skin appears dull, uneven and not as smooth as it once was.

Génifique Concentrate contains ingredients shown to boost genes' activity† and stimulate the production of youth proteins.† Skin looks breathtakingly radiant, refined and perfectly smooth.  
(Also available in a hydrating cream serum format.)

**Clinically Proven: See Visibly Younger Skin in Just 7 Days\***

To learn more about Génifique, go to [lancome.com](http://lancome.com)

\* Activates skin's youthful look.  
† In vitro tests on genes.  
† Clinical study on skin proteins associated with young skin – France.  
† Based on consumer evaluations in a clinical study which also consisted of expert evaluations.



ACTIVATE




MOISTURIZE

Moisturize with:

**GÉNIFIQUE REPAIR YOUTH ACTIVATING NIGHT CREAM**

**Skin Truth**  
When we're young, skin renewal and repair happen quickly and efficiently, whether we sleep 8 hours or only a few. With age skin's nighttime renewal and repair slows. The result? Skin can appear tired, dull, fatigued – even if we get plenty of rest.

**The Innovation**  
Génifique Repair contains ingredients shown to help boost the activity of skin's repair genes.™ Upon waking, skin appears rested and visibly repaired – as if you slept 2 extra hours.\*\*

**GÉNIFIQUE EYE YOUTH ACTIVATING EYE CONCENTRATE**  
See visibly younger, brighter eyes in just 7 days. Dark circles and signs of fatigue seem to diminish and the eye area looks fresh and luminous. Use alone or under any Lancôme eye cream.

\* In vivo tests.  
\*\* Based on consumer evaluations after 4 weeks of use.

Your Skincare **POWER SYSTEM™**

## Visibly Refill Wrinkles\* for Renewed Smoothness

Activate with:

**GÉNIFIQUE YOUTH ACTIVATING CONCENTRATE**

Youth is in your genes. Reactivate it.\*  
Discover the skin you were born to have.

Génifique Concentrate gives visibly younger skin in just 7 days. Skin looks as if it lit from within, feels cushiony soft and velvety to the touch.

**The Innovation**  
10 Years of Research – 7 International Patents  
At the very origin of your skin's youth: your genes. Genes produce specific proteins that diminish with age. Skin appears dull, uneven and not as smooth as it once was.

Génifique Concentrate contains ingredients shown to boost genes' activity† and stimulate the production of youth proteins.† Skin looks breathtakingly radiant, refined and perfectly smooth.

**Clinically Proven: See Visibly Younger Skin in Just 7 Days\***

To learn more about Génifique, go to [lancome.com](http://lancome.com)

\* Activates skin's youthfulness.  
† In vitro tests on genes.  
† Clinical study on skin proteins associated with young skin – France.  
† Based on consumer evaluations in a clinical study which also consisted of expert evaluations.



ACTIVATE




MOISTURIZE

Moisturize with:

**HIGH RESOLUTION REFILL-3X™ TRIPLE ACTION RENEWAL ANTI-WRINKLE CREAM SPF 15**  
High Resolution Refill-3X™ visibly refills wrinkles and helps re-plump skin for renewed smoothness.

**Skin Truth**  
Three natural skin fillers play a role in helping fight the appearance of wrinkles:  
**Elastin** maintains skin's elasticity. **Collagen** helps support skin's structure and maintain skin firmness. **Hyaluronic Acid** intensely hydrates and plumps skin. With age, elastin fibers degrade, collagen coils loosen and hyaluronic acid reserves become depleted. Visible wrinkles set in.

**The Innovation**  
**Triple Anti-Wrinkle Power!**  
High Resolution Refill-3X™ contains ingredients shown to boost the synthesis of the 3 natural skin fillers – elastin, collagen and hyaluronic acid\*\*\* – to help refill the look of wrinkles and help skin recapture youthful beauty. (Also available in a nighttime formula.)

**HIGH RESOLUTION EYE REFILL-3X™ TRIPLE ACTION RENEWAL ANTI-WRINKLE EYE CREAM**  
Visibly refills wrinkles and crow's feet and helps re-plump skin for renewed smoothness.

To learn more about High Resolution Refill-3X™, go to [lancome.com](http://lancome.com)

\* Visibly refills the appearance of wrinkles.  
\*\*\* In vitro testing on 3D models and AbRex Direct shows a boost in the synthesis of elastin, hyaluronic acid and collagen.

## DISCOVER THE BENEFITS OF ABSOLUE PRECIOUS CELLS

### Skin Truth

Fundamental discovery on skin's stem cells. Skin's most precious cells are the stem cells. Our research has made a decisive breakthrough by reversing the crucial role of stem cells' environment on their ability to restore density.

Our research also shows that the number of epidermal stem cells does not decrease with age, it is their activity that slows down due to changes in the condition of their environment.

Environmental factors bombard the skin every day, weakening its strength and density. These external assaults, along with chronological (natural) aging, can accelerate the formation of deep wrinkles.

### The Innovation

Absolute Precious Cells is Lancôme's breakthrough treatment with a powerful combination of unique ingredients – the Reconstitution Complex<sup>TM</sup> and Pro-Xylane<sup>TM</sup> – which have been shown to improve the condition around the stem cells and stimulate cell regeneration to reconstruct skin to a denser quality.

©2011 Lancôme

YOUR LANCÔME BEAUTY ADVISOR \_\_\_\_\_

STORE / NUMBER \_\_\_\_\_

A.M. SKINCARE RECOMMENDATION \_\_\_\_\_

P.M. SKINCARE RECOMMENDATION \_\_\_\_\_

TARGETED SOLUTIONS \_\_\_\_\_

TO LEARN MORE ABOUT LANCÔME, VISIT [LANCÔME.COM](http://LANCÔME.COM)

## ABSOLUE



## DISCOVER THE BENEFITS OF ABSOLUE PREMIUM Bx

### Skin Truth

With chronological (natural) aging, skin loses the ability to retain moisture and its structure begins to break down. Skin can feel dry and lose elasticity, firmness and radiance.

### The Innovation

Pro-Xylane<sup>TM</sup> – the fountain of youth? A natural sugar found in skin plays a key role in helping maintain essential skin moisture from within. Seven years of research led to the power of Pro-Xylane<sup>TM</sup> – a breakthrough technology acting deep in the skin's surface to restore essential moisture from within.

The deeply enriched Bio-Active<sup>TM</sup> complex of wild yam, soy, sea algae and berry, is specially formulated to help visibly rejuvenate skin's appearance.

These ingredient complexes are combined in Absolute Premium Bx to help deeply replenish skin for real, sustainable results. Skin replenishes the youthful qualities of younger-looking skin: firmness, elasticity, clarity.

## Your Skincare **POWER SYSTEM**<sup>TM</sup>

### Begin with:

**ABSOLUE ULTIMATE NIGHT Bx INTENSE NIGHT RECOVERY AND REPLENISHING SERUM**  
A unique serum combining our highest level of Pro-Xylane<sup>TM</sup> combined with the patented Bio-Active<sup>TM</sup> and Pro-Xylane<sup>TM</sup> Seed extract. Absolute Ultimate<sup>TM</sup> Night Serum helps skin feel firmer, more elastic and look visibly healthier.

### Moisturize with:

**ABSOLUE PRECIOUS CELLS ADVANCED REGENERATING AND RECONSTRUCTING CREAM SPF 15**  
A powerful cream combining our highest level of Pro-Xylane<sup>TM</sup> and Pro-Xylane<sup>TM</sup> Seed extract. Absolute Precious Cells Cream helps skin feel firmer, more elastic and look visibly healthier.

Absolute Precious Cells is our ultimate in skincare that addresses UV-damaged skin. It helps restore density, reduce the appearance of wrinkles and regenerate radiance. (Also available in a lightweight formula.)

Significant deep wrinkle reduction in UV-damaged skin after 4 weeks. Clinically proven.

**ABSOLUE EYE PRECIOUS CELLS ADVANCED REGENERATING AND RECONSTRUCTING EYE CREAM**

The ultimate eye care that visibly smooths, lightens and regenerates delicate skin, reducing signs of puffiness and fatigue.

To learn more about Absolute Precious Cells, go to [Lancome.com](http://Lancome.com)

\*Anti-wrinkle results: \*Based on a 4-week clinical study on 30 women with UV-damaged skin. After 4 weeks, deep wrinkles were reduced by 40% on the forehead and 30% on the cheeks.

## Absolute Replenishment & Regeneration for UV & Lifestyle Damaged Skin



SERUM

MOISTURIZE



### In-Store Sales People

48. Lancôme also provides training and disseminates information to sales persons at locations where its products are sold. Upon information and belief, these sales persons are trained to trumpet the purported benefits of using the Luxury Wrinkle Creams as well as the pseudo “scientific” or “clinical” data supporting such promised results.

49. Plaintiff Fabend relied on product efficacy promises including, but not limited to, “scientific” benefits and “clinical” data made by in-store Lancôme sales persons in making her purchases of Lancôme products in or about late 2010 and early 2011 at the Union Square San Francisco Macy’s department store.

### Use of Celebrity Spokespeople

50. Lancôme makes further use of print, television and internet advertising, wherein Lancôme touts the benefits of its skin-care products using celebrity spokespersons who claim to exemplify the results of the products.



51. What Lancôme fails to disclose is that the images of the celebrities it uses are airbrushed, digitized, embellished, “Photo-shopped” or otherwise altered and, therefore, contrary to the claims made by Lancôme, cannot and do not illustrate the effectiveness of its products. In sum, the images used by Lancôme to sell its Luxury Wrinkle Creams have nothing to do with the effectiveness of the products themselves.

52. Most recently, the National Advertising Division in the United States has taken a stance against the use of Photoshop in cosmetics advertising, noting that “[a]dvertising self regulatory authorities recognize the need to avoid photoshopping in cosmetics advertisements where there is a clear exaggeration of potential product benefits.”

53. Despite this warning, and the increased scrutiny regarding the use of photo-shopped images in the marketing of skin care products, upon information and belief, Lancôme continues to use altered images in its cosmetic advertising, including this highly embellished image of actress Kate Winslet as compared to her photo below. (available at <http://www.imdb.com/media/rm2159774208/nm0000701>).



54. Such deceptive use of celebrity spokespersons only further illustrates the lengths to which Lancôme will go to trick its consumers to make a profit.

### **Lancôme's Claims Regarding Product Efficacy Are Not Mere Puffery**

55. Lancôme's claims of scientifically-backed results cannot be defended as mere puffery. Indeed, L'Oreal admits in its 2011 annual report that the "close interaction between science and marketing . . . is a key advantage to L'Oreal's innovation approach."

56. Lancôme relies on such a "close interaction" because it knows that consumers are more likely to believe its empty promises, and therefore more likely to purchase its products, when indicia of scientific study and reliability are present.

57. In addition to the scientifically backed results, Lancôme makes specific promises regarding the efficacy of the Luxury Wrinkle Creams as fully detailed below in the sections for the Specific Luxury Wrinkle Cream Claims.

58. Promises of such specific results mean that Lancôme's marketing goes beyond any mere puffery.

### **Challenges to Lancôme's Misleading Advertising**

59. In December 2010, the Swedish Market Court found that Lancôme's claims that its High Resolution products (one of the Collections at issue here) could smooth out wrinkles by up to 70% were unsubstantiated and not supported by scientific evidence. The court ruled that Lancôme's advertisements were thus misleading. The court imposed a conditional fine of 1 million krona, and also ordered L'Oreal to pay the ombudsman's legal fees. Lancôme was banned from making a number of claims about its creams, including that they "repair wrinkles

from within," "reduce wrinkles up to 40 percent," or use "pictures that mislead customers about the effects of the product" in future adverts.”<sup>3</sup>

60. Despite these admonitions by the Swedish court, Lancôme continues to deceive consumers in the United States by repeating false and deceptive claims domestically.<sup>4</sup>

61. In addition, both L’Oreal and Lancôme have recently had advertisements banned in the U.K. for containing deceptive images, which were found to have misled consumers regarding the efficacy of their products. Specifically, an advertisement by L’Oreal for its Revitalift wrinkle cream was banned because it “misleadingly exaggerated the performance of the product in relation to the claims.” The Lancôme advertisement featuring Julia Roberts wearing Lancôme’s Teint Miracle foundation was banned because her skin appeared “categorically flawless.”

62. Whether over the Internet, television, in print or through personal contact with sales people, each of these forms of advertising perpetuates the same general deceptive scheme that Lancôme’s products have age-negating effects on human skin.

---

<sup>3</sup> Available at: <http://www.cosmeticsdesign-europe.com/Market-Trends/Ads-branded-misleading-as-L-Oreal-s-lumbered-with-conditional-fine>.

<sup>4</sup> See [http://thelook.today.msnbc.msn.com/\\_news/2012/02/01/10288992-loreal-ad-banned-for-making-rachel-weisz-look-misleadingly-smooth?lite](http://thelook.today.msnbc.msn.com/_news/2012/02/01/10288992-loreal-ad-banned-for-making-rachel-weisz-look-misleadingly-smooth?lite); <http://www.styleite.com/beauty/julia-roberts-christy-turlington-ads-banned-photoshop/#0>

## Product Cycles

63. To perpetuate its deceptive scheme, Lancôme has a short product cycle, releasing new products every few years based upon some new “research” or purported “scientific discovery.” Lancôme does so in order to falsely tout its new products via a re-imagined marketing campaign in order to keep driving sales and profits that would otherwise stagnate once consumers used the products and realized that they do not perform as promised. This scheme is evident by the fact that Lancôme discontinues sales and production of its older products once new products are introduced to the market, despite the fact that the claims made on the discontinued products are seemingly amazing scientific breakthroughs.

64. For example, Lancôme discontinued its Secret de Vie<sup>5</sup> product, for which it made the following promises:

- It started in the Lancôme Laboratories with the urge to achieve "skin rebirth." Then came an awesome discovery: Sucre Vital™, a magical nutrient that fuels life in a hostile undersea world. Recreated by Lancôme scientists, this fuel and five other life-sustaining ingredients form Extrait de Vie™, a powerful concentrate that provides the skin with virtually everything it needs to thrive.
- Enriched with Extrait Extrême, two phenomenal marine extracts from extreme environments the boiling California undersea and the glacial Arctic Ocean this rare complex prolongs the life of skin cells.
- A unique concentrate of six ingredients that delivers intense restorative action to six major cell types for instant, visible, exceptional results.
- Intense nighttime regenerating action your skin experiences the transformation of "cellular rebirth."

---

<sup>5</sup> The French name “Secret de Vie” translates into “Secret of Life” in English.



65. Lancôme discontinued this purported “awesome discovery” from the market despite its promised efficacy.

66. Lancôme’s removal of purportedly effective products, like Secret de Vie, from the market demonstrates that Lancôme’s promised benefits are illusory and nothing more than clever marketing.

67. Upon information and belief, the Secret de Vie line of products was replaced by the Absolue Collection.

### **Comparison to Lower Cost Products**

68. L’Oreal USA, Inc. also sells products under other brand names, often for significantly lower prices. Some of these lower priced products are almost identical to the Lancôme luxury products. For example, L’Oreal USA’s “L’Oreal Paris” brand sells a product called L’Oreal Youth Code Serum Intense that is substantially identical to Lancôme’s Genifique: Youth Activating Concentrate. The following chart compares these products:

Product	Genifique Youth Activating Concentrate	L’Oreal Youth Code Serum
Ingredients	<ul style="list-style-type: none"> <li>• Aqua/ Water/Eau</li> <li>• Bifida Ferment Lysate</li> <li>• Glycerin</li> <li>• Alcohol Denat.</li> <li>• Dimethicone</li> <li>• Hydroxyethylpiperazine Ethane Sulfonic Acid</li> <li>• Sodium Hyaluronate</li> </ul>	<ul style="list-style-type: none"> <li>• Aqua/Water</li> <li>• Bifida Ferment Lysate</li> <li>• Glycerin</li> <li>• Alcohol Denat.</li> <li>• Dimethicone</li> <li>• Hydroxyethylpiperazine Ethane Sulfonic Acid</li> <li>• Peg-20 Methyl Glucose Sesquiterate</li> </ul>

	<ul style="list-style-type: none"> <li>• Phenoxyethanol</li> <li>• PEG-20 Methyl Glucose Sesquistearate</li> <li>• PEG-60 Hydrogenated Castor Oil</li> <li>• Salicyloyl Phytosphingosine</li> <li>• Ammonium Polyacryldimethyltauramide /Ammonium Polyacryloyldimethyl Taurate</li> <li>• Limonene</li> <li>• Xanthan Gum</li> <li>• Caprylyl Glycol</li> <li>• Disodium EDTA</li> <li>• Octyldodecanol</li> <li>• Citric Acid</li> <li>• Citronellol</li> <li>• Parfum/Fragrance</li> </ul>	<ul style="list-style-type: none"> <li>• Sodium Hyaluronate</li> <li>• Salicyloyl Phytosphingosine</li> <li>• Palmitoyl Oligopeptide</li> <li>• Palmitoyl Tetrapeptide-7</li> <li>• Adenosine</li> <li>• Ammonium Polyacryldimethyltauramide,</li> <li>• Disodium Edta</li> <li>• Caprylyl Glycol</li> <li>• Citric Acid</li> <li>• Xanthan Gum</li> <li>• N-Hydroxysuccinimide</li> <li>• Chrysin</li> <li>• Octyldodecanol</li> <li>• Sodium Benzoate</li> <li>• Phenoxyethanol</li> <li>• Limonene</li> <li>• Parfum</li> </ul>
Claims	<ul style="list-style-type: none"> <li>• 10 years of research</li> <li>• more than 4000 genes analyzed</li> <li>• more than 1300 proteins studied</li> <li>• exceptional results in vivo performance</li> <li>• tonicity and elasticity significantly improved</li> </ul>	<ul style="list-style-type: none"> <li>• 10 Years of Gene Research.</li> <li>• See smoother, youthfully luminous and rested skin emerge.</li> <li>• L'Oreal scientists unlock the code of skin's youth by discovering a specific set of genes that are responsible for skin's natural power of regeneration.</li> <li>• With L'Oreal's breakthrough GenActiv Technology TM, this 10x</li> </ul>

	<ul style="list-style-type: none"> <li>• Boosts the activity of genes</li> <li>• stimulates the production of youth proteins</li> <li>• A true skincare innovation with 7 worldwide patents pending,</li> <li>• Visibly younger skin in just 7 days.</li> <li>• Skin looks as if lit from within – breathtaking radiant.</li> <li>• Its youthful quality returns: cushiony soft and velvety to the touch. Drop by drop, skin is vibrant with youth, its tone becomes astonishingly even, its texture dramatically refined</li> </ul>	<p>more concentrated daily activating serum has the power to instantly hydrate and transform skin to be smoother, youthfully luminous and rested skin emerge.</p> <ul style="list-style-type: none"> <li>• Dramatic Results.</li> <li>• Immediately, skin is transformed to be silky smooth, deeply hydrated</li> <li>• 1 Week, Facial features look rested and your face radiates from within</li> <li>• 4 Weeks, Helps liberate your face from signs of fatigue. Skin is revived and appears visible younger.</li> </ul>
Cost	\$80.00 for 1 fluid ounce	\$16.00 for 1 fluid ounce

69. As demonstrated by the above comparison of the efficacy claims made by L’Oreal for both products, the efficacy claims are driven by the target market and not by the actual results that the substantially identical products will provide. That is, the claims for L’Oreal Youth Code Serum, which, at \$16.00 for 1 fluid ounce, is a much lower-priced product marketed to working middle class women and sold in drug stores and large retailers like Walmart, focus on liberating the skin from looking “fatigued,” “reviving” the skin, and making it look more “rested.” Conversely, the claims for Genifique Youth Activating Concentrate, which, at \$80.00 for 1 fluid ounce, is a high-priced product sold on Lancôme-usa.com and at high-end department stores, focus on science (i.e., genes analyzed, in vivo performance, patents) and promises of “youth” proteins and younger skin.

70. Despite the different efficacy claims, the only ingredients in Genifique but not in the less expensive Youth Code are PEG-60 Hydrogenated Castor Oil and Citronellol, none of which are new or unique such that they provide any special benefits. PEG-60 Hydrogenated Castor Oil is a fragrance ingredient, cleansing agent or solubilizing agent used in more than 60 cosmetic products. Citronellol is a colorless oily liquid with a floral smell suggestive of rose commonly used in cosmetics and personal care products.

71. Accordingly, none of the ingredients that are found in Genifique but not found in the less expensive Youth Code justifies the \$64 discrepancy in price.

### **The Specific Luxury Wrinkle Cream Claims made by Lancôme**

#### **VISIONNAIRE ADVANCE SKIN CORRECTOR**

72. Visionnaire [LR 2412 4%] Advanced Skin Corrector (“Visionnaire”) was launched in September 2011.

73. Visionnaire is sold for \$84 for 1.0 fl. oz, and \$105 for 1.7 fl oz.

74. Lancôme’s advertising campaign for Visionnaire is designed to highlight not only the dramatic (and fanciful) results that can be achieved by using Visionnaire but also the scientific basis supporting such claims. That Lancôme does so without sufficient objective and reliable scientific support is the crux of Plaintiff’s and the Class’s claims.

75. The following advertising and marketing claims about Visionnaire are deceptive and misleading:

- a. LR 2412 is a molecule designed to propel through skin layers. On its path, it triggers a cascading series of *micro-*

*transformations\* and acts biologically on the 12 key targets of aging\**. LR 2412 is a small molecule. It is also amphiphilic, which means it is able to merge naturally with both aqueous and lipid structures in the skin. As soon as it is applied, LR 2412 therefore merges with surface lipids without impairing skin's barrier function. It is such a visionary molecule that it is now protected by 20 International Patents!

*\*Based on in-vitro testing*

- b. Capable of fundamentally re-creating more beautiful skin.
- c. One out of two women tempted by a cosmetic procedure decided to postpone it.
- d. Fine lines look reduced: 76%  
Pores seem less visible: 84%  
Skin seems smoothed out: 87%  
Overall skin appearance is improved: 86%
- e. LR 2412 visibly rejuvenates your skin.
- f. Much more than a wrinkle-corrector, our 1st skincare capable of fundamentally re-creating more beautiful skin. The first skincare with LR 2412, a molecule designed to propel through skin layers.
- g. When plants are damaged, they produce a 'signal molecule.' This activates the healing of the damaged tissues and also serves to make them more resistant. Within plants, it is this 'signal molecule' that triggers the action of repair and defense mechanisms. The challenge of our Research was to mimic its ability in a compound that it's in affinity with human skin. Our Research created and studied around 20 derivatives of this substance. Out of these studies, the molecule LR 2412 was born.

76. Lancôme further claims that the promised results of Visionnaire are based on "clinical studies" and "in-vitro testing" and that they are "clinically proven on all skin tones." In fact, no such independently reliable and scientific studies exist regarding the efficacy of Visionnaire.

77. Despite the lack of scientifically reliable studies on the efficacy of Visionnaire, Lancôme repeatedly claims specific results for Visionnaire based on what amounts to a mere survey of consumers who received free product from Lancôme as part of the “study.”

78. In fact, while it appears that Lancôme tested Visionnaire on a “total of 800 women” (Lancôme-usa.com) to determine whether it was suitable for all skin types, none of the purported efficacy results are based on this test. Rather, for the efficacy results, Lancôme refers at one point to an undefined “clinical study” and at another point to a seemingly different and incoherent description of a “self-assessment of the total of all consumers tested at 4 and 6 weeks.”

79. Indeed, when Lancôme references that its results are “based upon the self-assessment of all consumers tested” it does not identify whether the “tests” were scientifically reliable or even what the purported results actually reflect. For example, on the “proven results” portion of its website, Lancôme touts that consumers who used Visionnaire reported that “fine lines looked reduced 76%.” Lancôme does not disclose whether all the consumers tested reported a 76% reduction in the look of fine lines or whether 76% of the consumers tested reported some reduction in the look of fine lines, regardless of how minimal the “look” of the reduction. Lancôme intentionally creates such confusion in order to bolster the results of its consumer testing because the interpretations of this “result” can be dramatically different—a 76% reduction in the look of fine lines across all those who

were tested vs. 76% of those who were tested saw a minimal reduction in the look of fine lines.

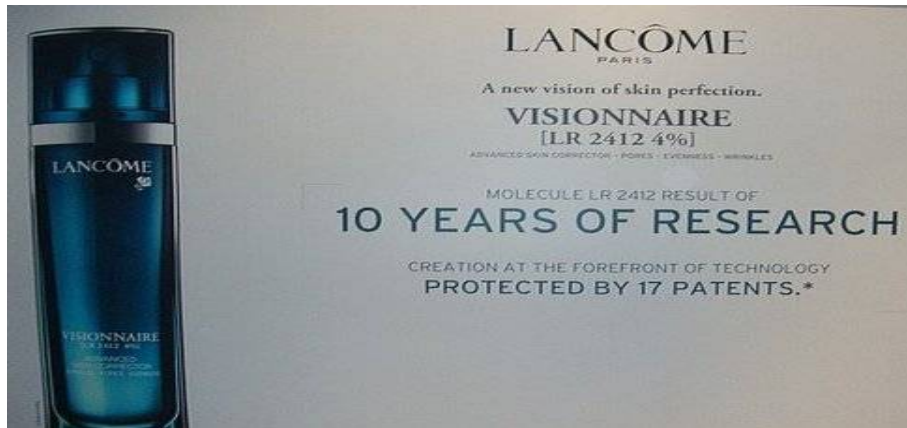
80. Moreover, Lancôme's patent claims for Visionnaire are not consistent from one advertisement to another. For example, Lancôme's website claims that Visionnaire is the result of 12 years of research and 20 international patents.<sup>6</sup> Lancôme's package insert for Visionnaire indicates, however, that patents are pending but makes no mention of having any patents, much less 20 International patents. And, inexplicably, L'Oreal's financial report targeting investors<sup>7</sup> claims that Visionnaire is protected by 17, not 20, patents. ("With Visionnaire, Lancôme has stepped into the future of cosmetics. As well as offering the performance and technological innovation of LR 2412, protected by 17 patents, Visionnaire stands out thanks to its innovative communication, with its five advertising visuals which focus on women of different ethnic origins. The launch was backed up by a futuristic film that combines visions of hyperscience, hyperluxury and a very Lancôme kind of femininity.").

---

<sup>6</sup> "These 12 years represent the sum of the time it took to create 20 compounds, all of which belong to the jasmonate family, and to carry out formulation trials to test their stability, safety and performance. The final result of this long development process is a single molecule that is now protected by 20 International patents." "These 20 International Patents, as well as the presentation of LR2412 at the World Congress of Dermatology in Seoul, South Korea, this spring, aid in validating our scientific discovery." (available at [http://www.lancome-usa.com/visionnaire-minisite-ask-a-beauty-advisor/visionnaire\\_ask-a-beauty-advisor,default,pg.html](http://www.lancome-usa.com/visionnaire-minisite-ask-a-beauty-advisor/visionnaire_ask-a-beauty-advisor,default,pg.html)).

<sup>7</sup> [http://www.loreal-finance.com/\\_docs/us/2011-annual-report/LOREAL\\_Rapport-Activite-2011.pdf](http://www.loreal-finance.com/_docs/us/2011-annual-report/LOREAL_Rapport-Activite-2011.pdf)

81. Finally, Lancôme claims on other advertising material, that Visionnaire is the result of 10 years of research and only 17 patents.

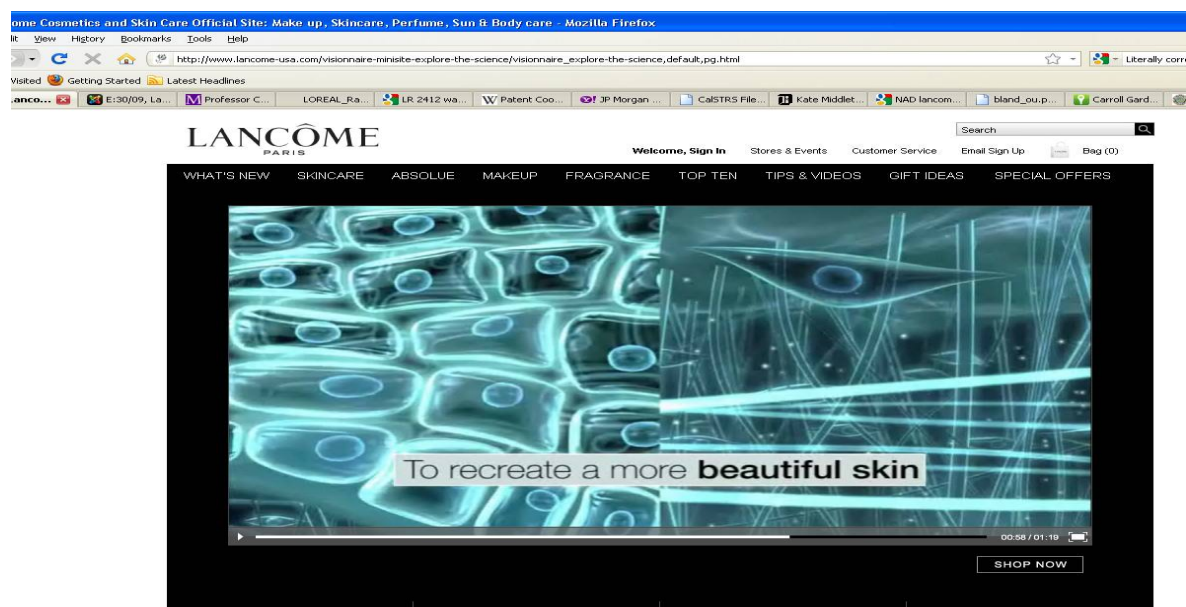
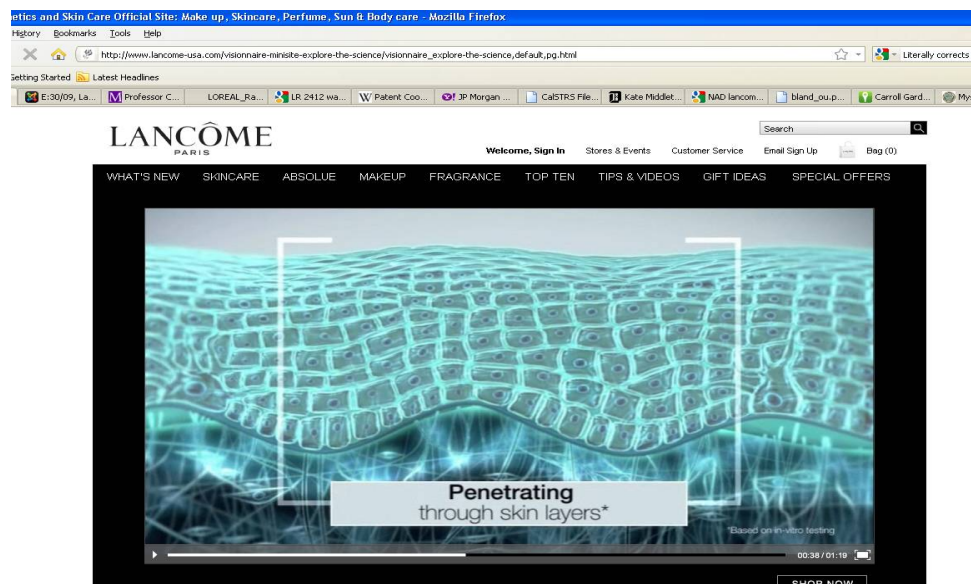


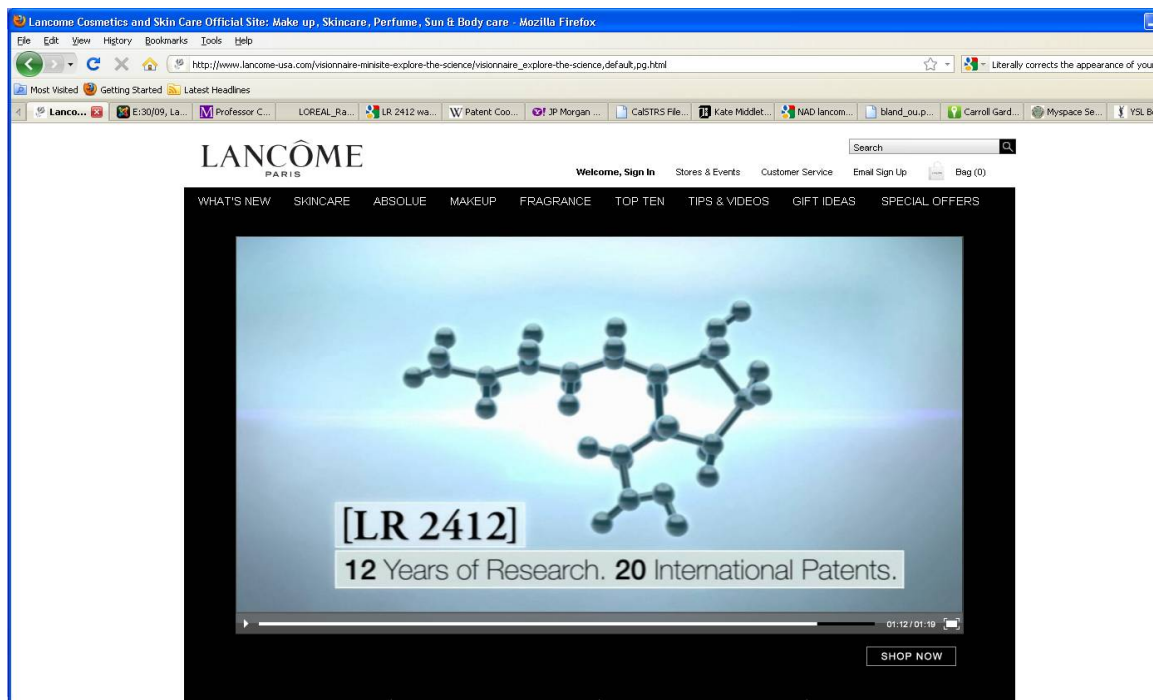
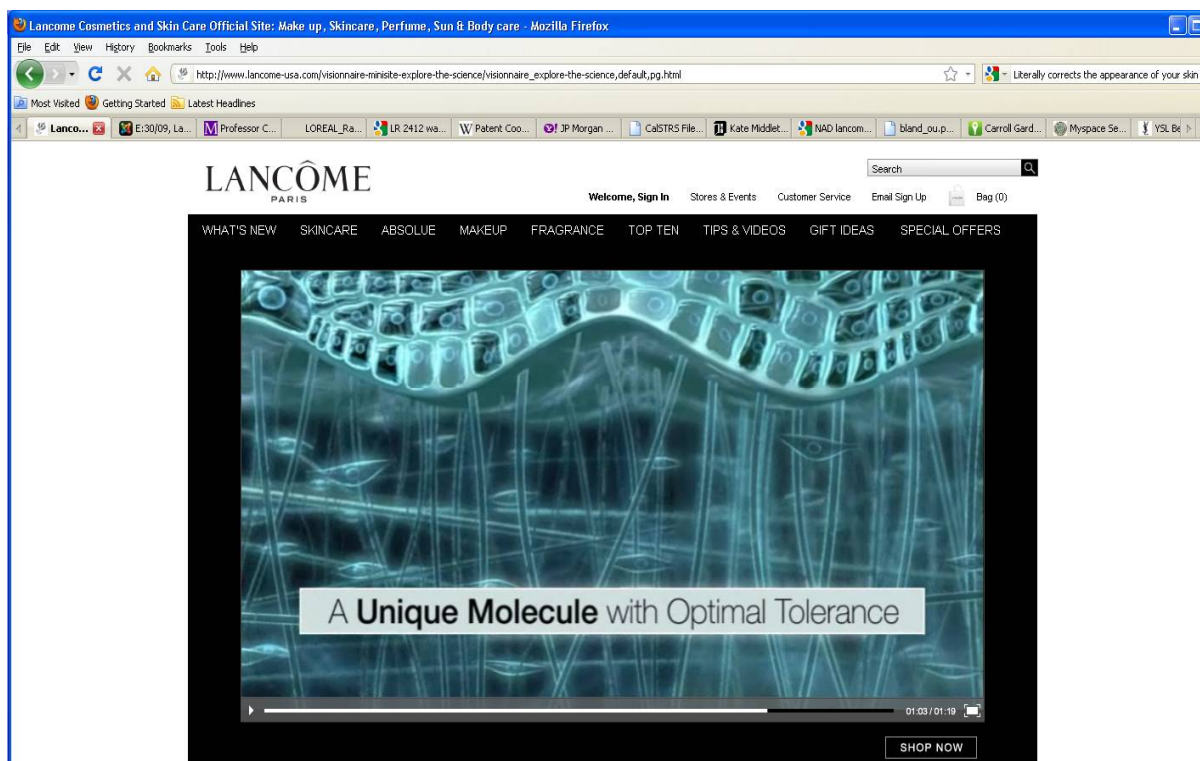
82. In still other advertisements, Lancôme claims that the results of Visionnaire can replace those of a cosmetic procedure.

83. Lancôme further claims the Visionnaire has the ability to boost cell renewal and accelerate the ability of the skin to heal itself.

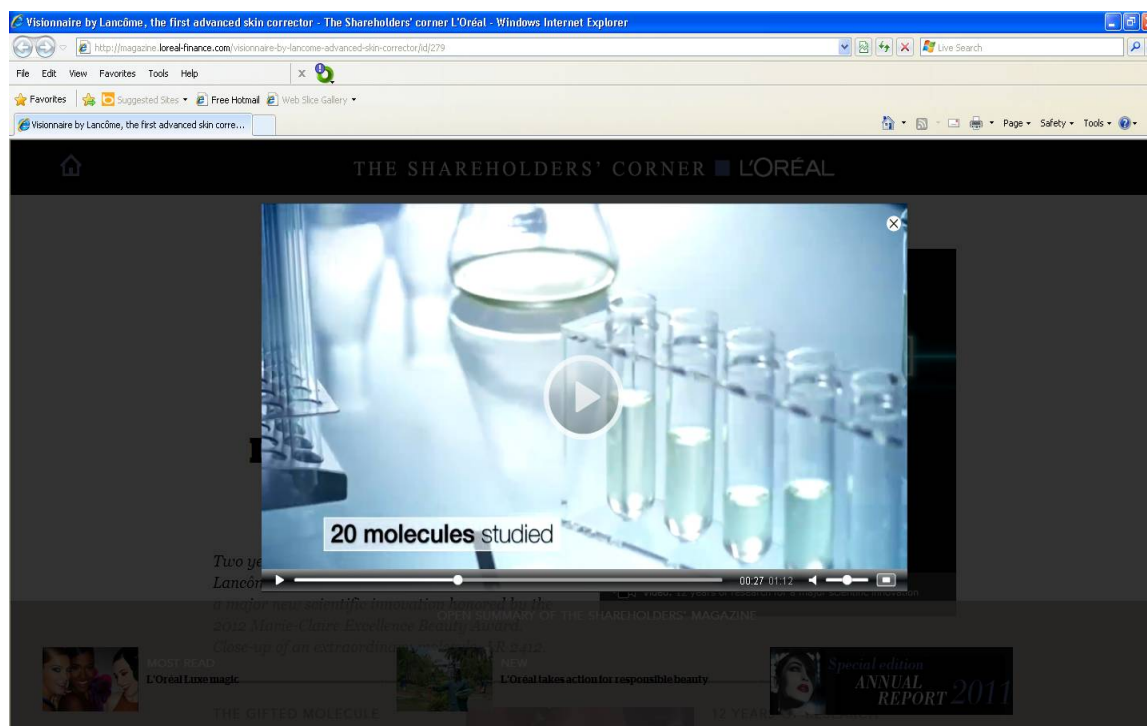
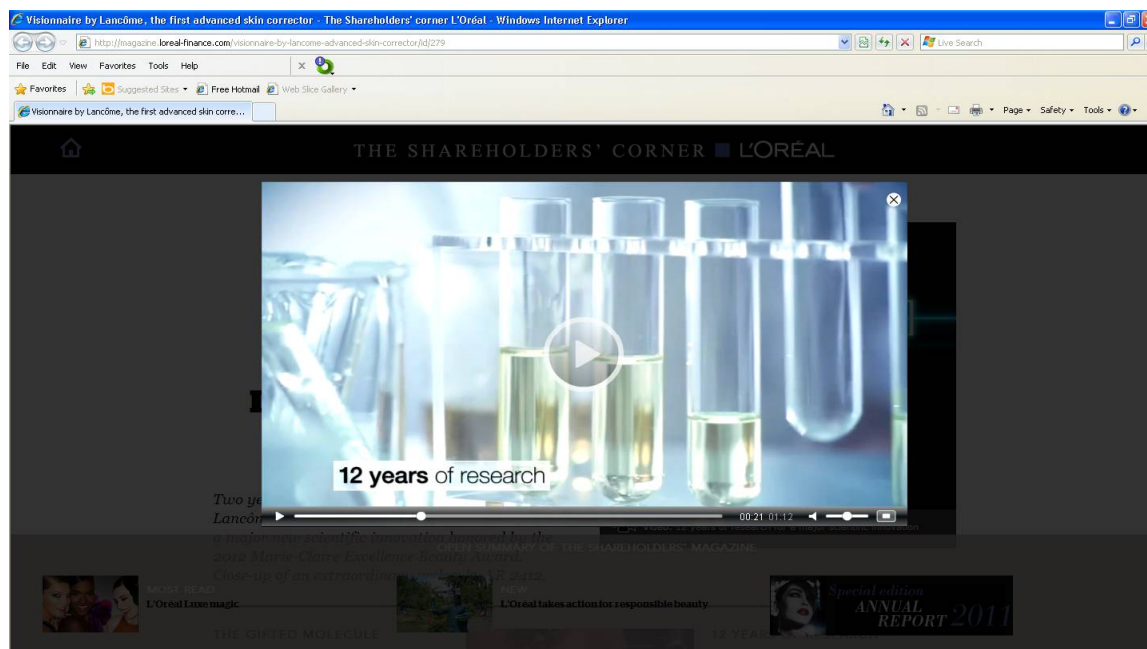
84. Lancôme's website contains a video purporting to "explore the science of LR 2412." This one minute and twenty second video includes a dramatization of Visionnaire penetrating in the skin and promises that it will recreate more beautiful skin.

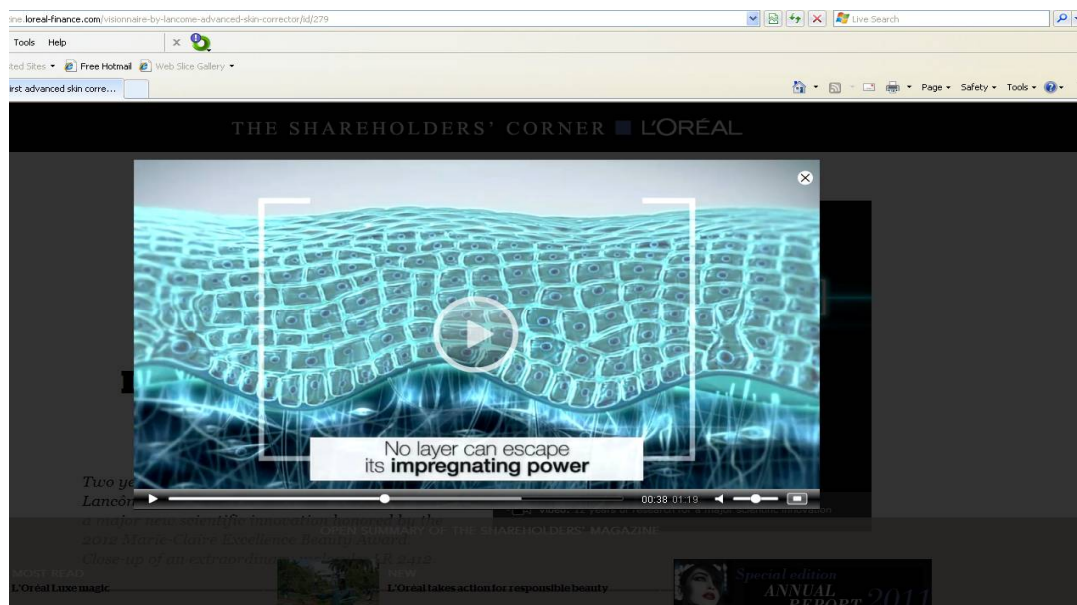
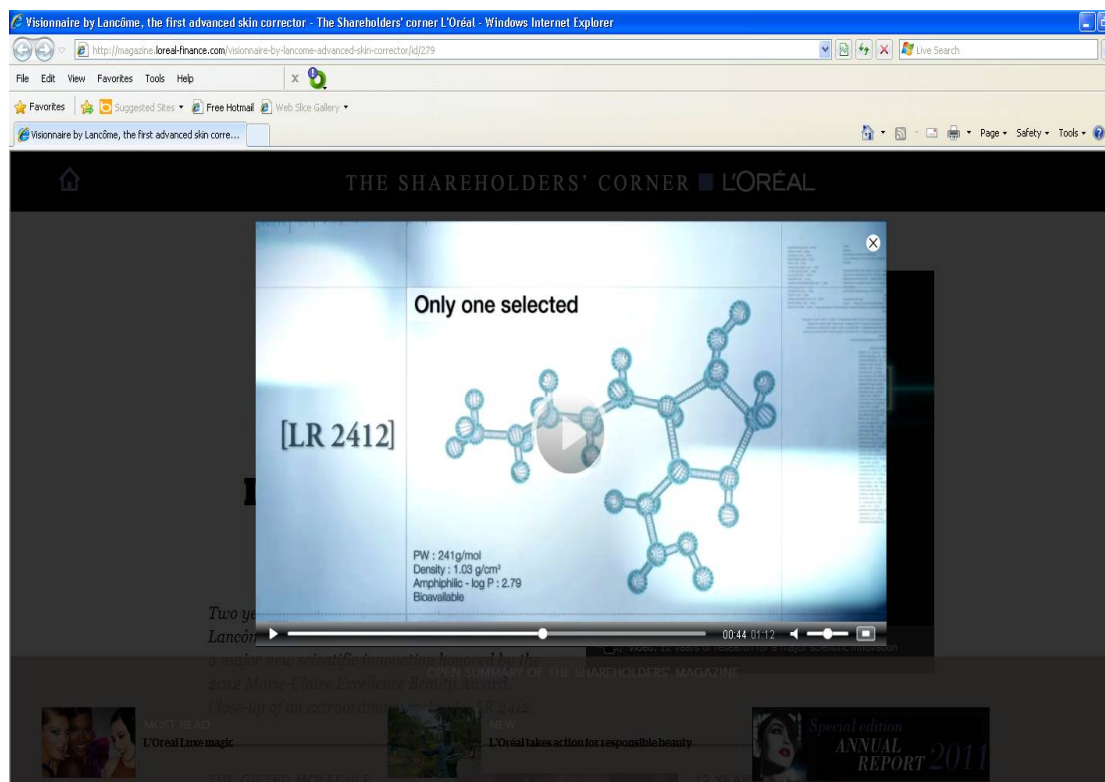




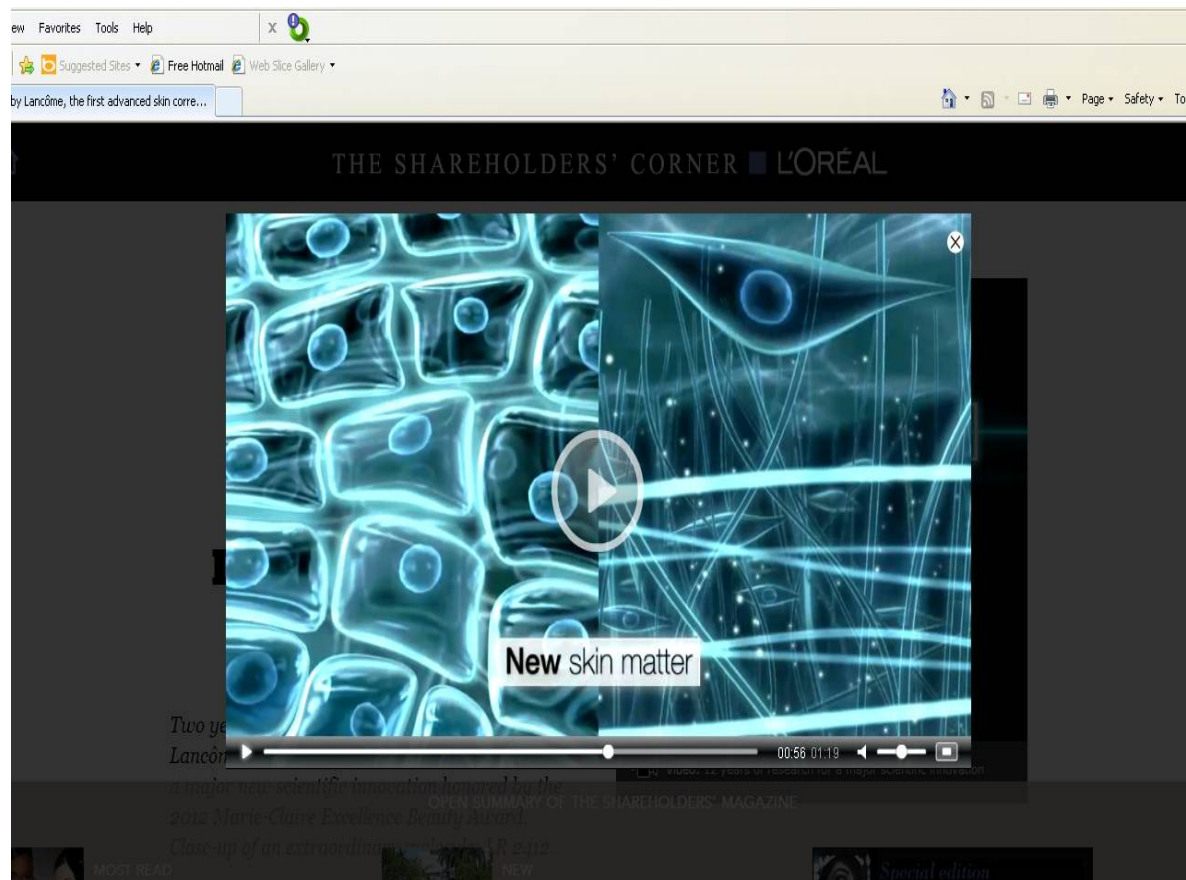


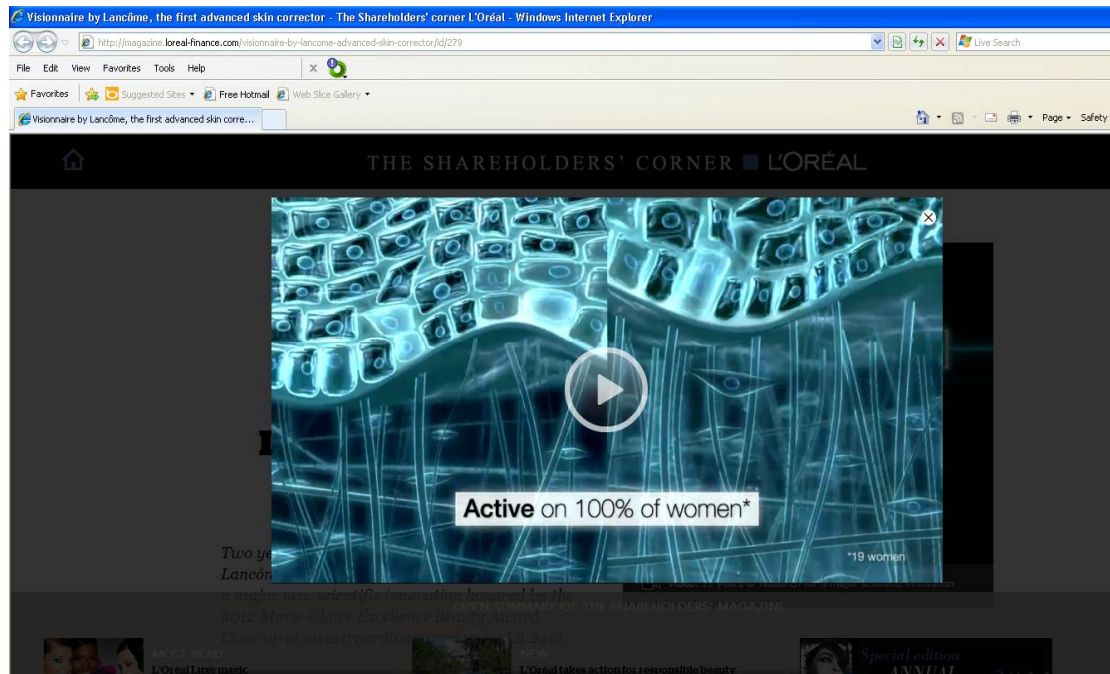
85. And another of Lancôme's websites has a different video presentation which makes similar efficacy promises:











86. Making such specific efficacy promises based upon “scientific” data demonstrates that Lancôme’s claims are *not* mere puffery. Indeed, if Visionnaire actually “penetrated through skin layers,” “act[ed] on all layers of the skin,” “repair[ed]” fine lines and wrinkles, and “correct[ed] pores,” it would trigger regulation by the FDA as a drug.

### **GENIFIQUE**

87. The Genifique collection (“Genifique”) was launched in 2009. The Youth Activating Concentrate costs \$80 for 1 oz. and the Genifique Eye Youth Activating Eye Concentrate costs \$60 for 0.5 oz. The Youth Activating Cream Serum costs \$84.00 for 1 oz. The Genifique Youth Activating Night Cream costs \$98 for 1.7 oz.

---

<sup>8</sup> The almost invisible reference in this video to “19 women” provides consumers with absolutely no information upon which they can judge the reliability of this claim.

88. Lancôme misleadingly claims that, Genifique is:

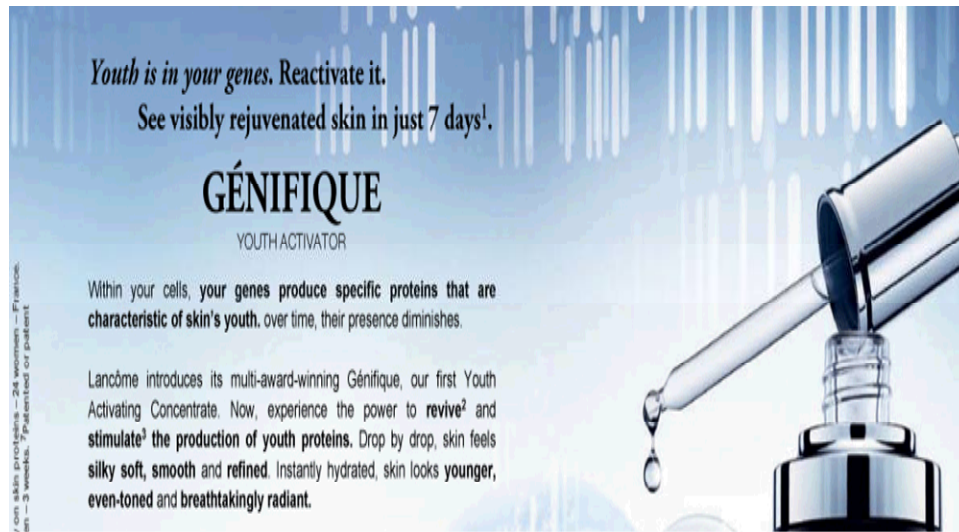
a. Our first skincare that boosts the activity of genes<sup>1</sup> and stimulates the production of youth proteins<sup>2</sup>. A true skincare innovation with 7 worldwide patents pending, Génifique is the foundation of every woman's skincare at any age or for any skin concern.

<sup>1</sup>*In-vitro test on genes.* <sup>2</sup> *Clinical study on skin proteins associated with young skin – France.*

b. Result: Visibly younger skin in just 7 days. Skin looks as if lit from within – breathtaking radiant. Its youthful quality returns: cushiony soft and velvety to the touch. Drop by drop, skin is vibrant with youth, its tone becomes astonishingly even, its texture dramatically refined.

89. Lancôme's advertisements further promise that using Genifique will provide visibly younger looking skin in just 7 days by reactivating and/or reviving youth (proteins) in the genes:



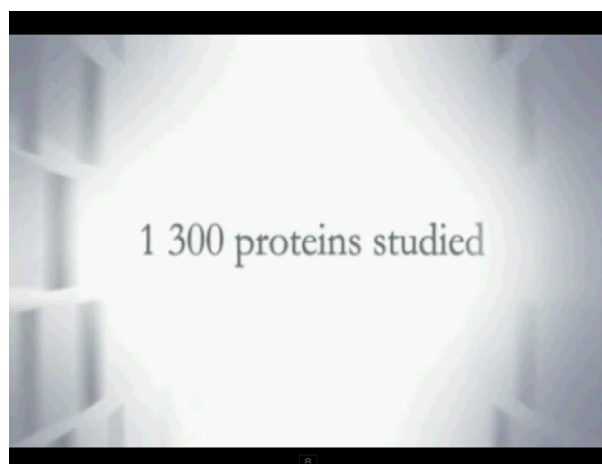
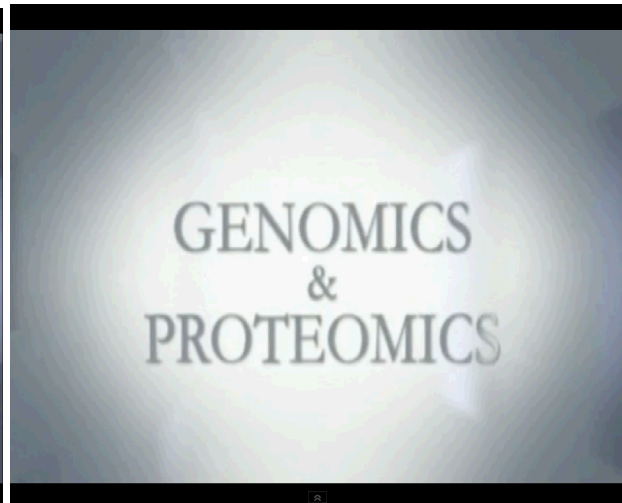


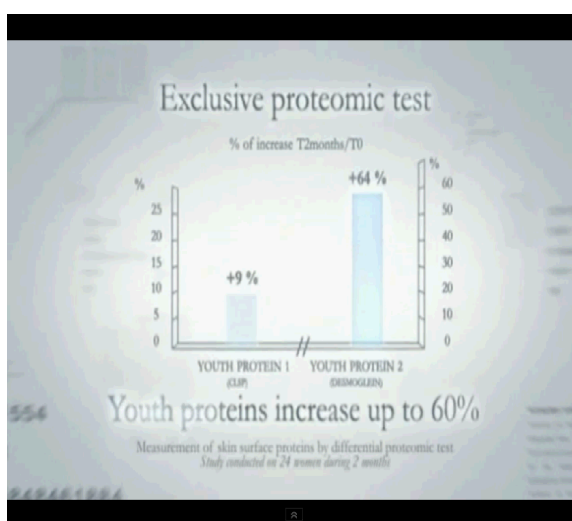
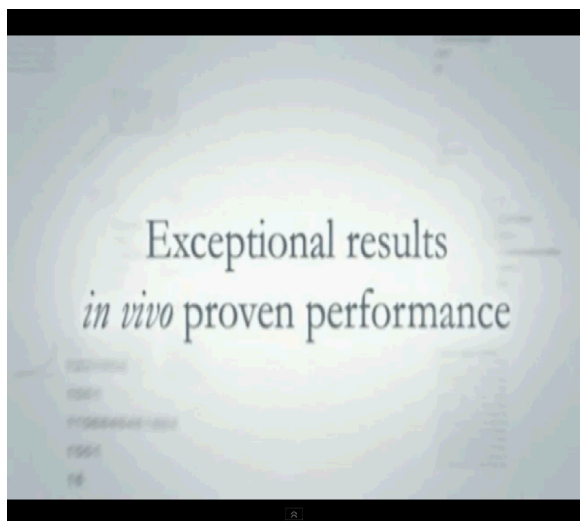
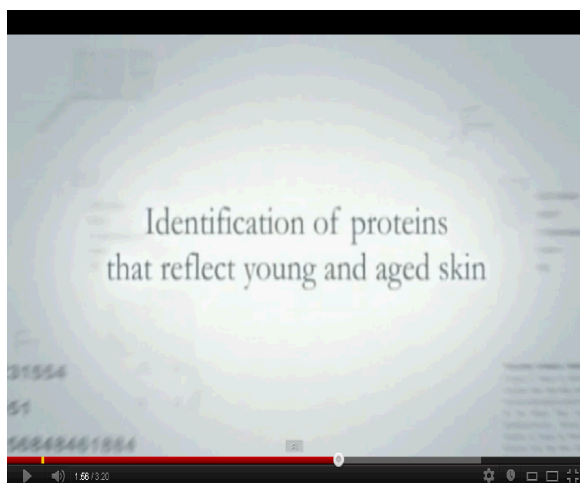
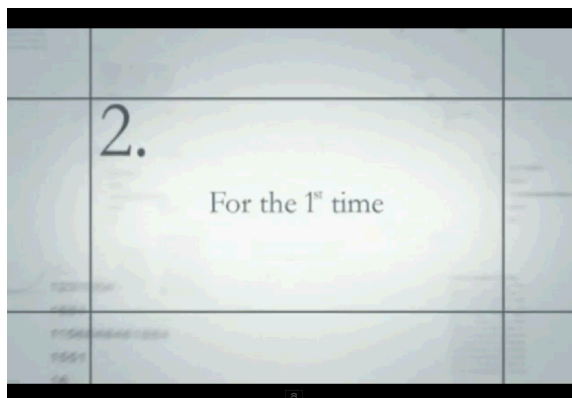
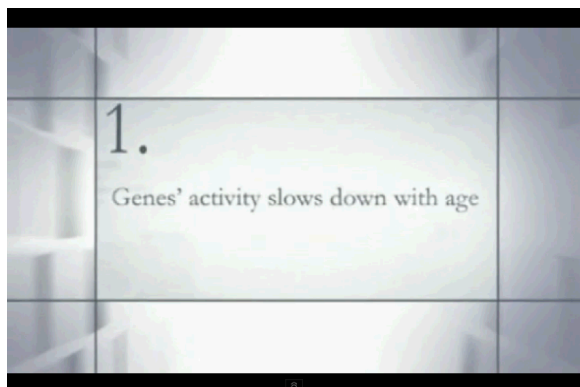
90. In reality, Lancôme knows or should know that using Genifique will not boost the activity of genes in humans, despite its reliance on an “in-vitro test on genes.”

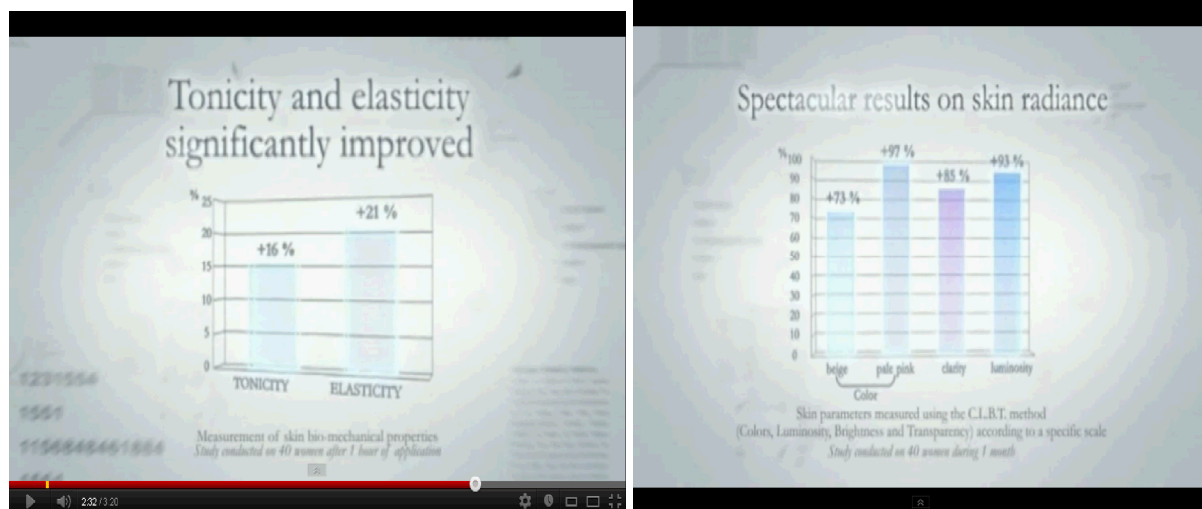
91. Moreover the nonsensical “clinical study on skin proteins associated with young skin – France” provides no information which would allow a consumer to assess the reliability of the purported clinical study.

92. Lancôme also created and distributed several marketing videos further disseminating its claim that Genifique reactivates youth proteins based on the “science of genomics.” Those videos, one of which is entitled The Science Behind Lancôme Genifique, were available on Lancôme-usa.com and are currently available on youtube.com (<http://www.youtube.com/watch?v=puQkKTEcRr4&feature=related>). These videos are inundated with purported scientific data, discoveries, studies and statistics showing how Genifique allegedly boosts the activity of genes:









93. In reality, nothing in Genifique has been proven to activate the “youth genes” or “youth proteins” in humans such that it would repair or reverse the signs of aging. Upon information and belief, none of the ingredients in Genifique have been shown to stimulate the production of “youth proteins” in humans.

94. Indeed, if Genifique did actually activate “youth genes” or stimulate the production of “youth proteins” in the skin, it would trigger regulation by the FDA.

### **HIGH RESOLUTION**

95. The High Resolution collection was launched by Lancôme in 2009. The cost of the High Resolution Refill 3x Triple Action Renewal Anti-Wrinkle Night Cream is \$93.00 for 2.6 oz. The High Resolution Eye Refill-3X™ Triple Action Renewal Anti-Wrinkle Eye Cream is \$60 for 0.5 oz. The High Resolution Refill-3X™ Triple Action Renewal Anti-Wrinkle Cream SPF 15 Sunscreen is \$78 for 1.7 oz. The High Resolution Collaser-5x (tm) Intense Collagen Anti-Wrinkle Serum sold for \$72.00 for 1 oz, but is no longer available online.

96. Plaintiff Fabend purchased Lancôme's High Resolution product for approximately \$80.00 on or about late 2010 or early 2011 from the Lancôme counter at the Union Square Macy's department store in San Francisco, California. Plaintiff Fabend was induced to purchase the High Resolution product after reading Lancôme product advertisements in magazines, including, but not limited to Glamour, and after listening to false and misleading promises of product efficacy from a Lancôme salesperson at Macy's department store.

97. According to Lancôme, "Our exclusive [High Resolution] Refill-3X complex helps boost the synthesis of the three natural skin fillers-collagen, hyaluronic acid and elastin."

98. Lancôme sells the High Resolution collection, along with many of the other collections at issue here, in retail stores like Sephora, Macy's, Nordstrom, Bloomingdales, and Neiman Marcus, to name a few. Lancôme controls and approves the content, use, and dissemination of marketing materials to these and other retail stores.

99. For example, according to Sephora.com, Lancôme states that High Resolution provides the following benefits:

- **What it does:** Lancôme High Résolution Night Refill-3x™ has triple antiwrinkle power that refills wrinkles within one hour. Skin reclaims a youthful elasticity and resiliency and is noticeably more supple and plump. Dermatologists are only able to inject collagen and hyaluronic acid, but Refill-3X complex has the added ability to boost the synthesis of elastin. This exclusive formula, enriched with patent-pending Anisic Extract, helps complete the nightly cellular renewal process. Fine lines, wrinkles, and imperfections are noticeably less visible by morning, and skin appears refreshed and hydrated.

100. Not surprisingly, Lancôme's magazine advertising repeats the charade - "Target 80% of collagen in just 48 hours":



101. Still other Lancôme-approved claims of High Resolution's effectiveness include the following from Macys.com:

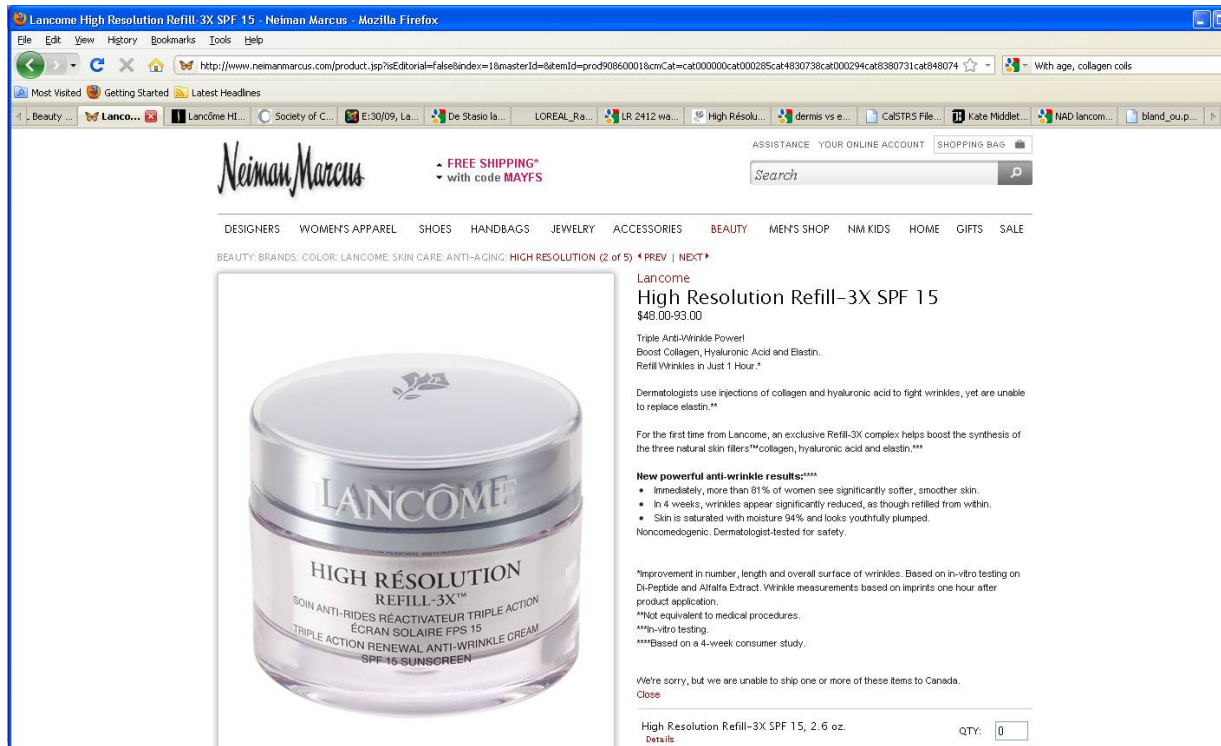
With age, collagen coils loosen, elastin fibers degrade and hyaluronic acid reserves become depleted. As a result, visible wrinkles set in. The solution comes in the form of Lancôme's most advanced weapon in the fight against wrinkles, a formula that helps boost the synthesis of the three natural skin fillers: collagen, elastin and hyaluronic acid to help refill the impression of wrinkles. In 4 weeks, the number, depth and size of wrinkles appear significantly reduced. Your skin is noticeably more supple and plumped. Discover softer, smoother skin.

102. And Lancôme goes on to promise on Nordstrom.com that High Resolution will:

Fight wrinkles at the source. Target 80% of collagen in just 48 hours! Inspired by laser therapy, High Résolution Eye Collaser-5X™ contains a revolutionary new complex that targets five key types of collagen in the skin around the eye (in in-vitro tests). The synthesis of healthy new collagen begins in just 48 hours.<sup>1</sup> Fast, visible results (based on results from a 3-week and a 4-week consumer test):- Immediately: 100% feel the eye contour is more supple while 86% see a visible reduction in puffiness. - In 3 weeks: 64% see a

visible reduction in wrinkles. 54% see a visible reduction in the appearance of dark circles. 0.5 oz. <sup>1</sup>Fight wrinkles deep within the skin's surface layers. In-vitro testing on rice peptides and alfalfa extract shows production of new collagen within 48 hours.<sup>9</sup>

103. According to Neimanmarcus.com, Lancôme promises that wrinkles are refilled in one hour:

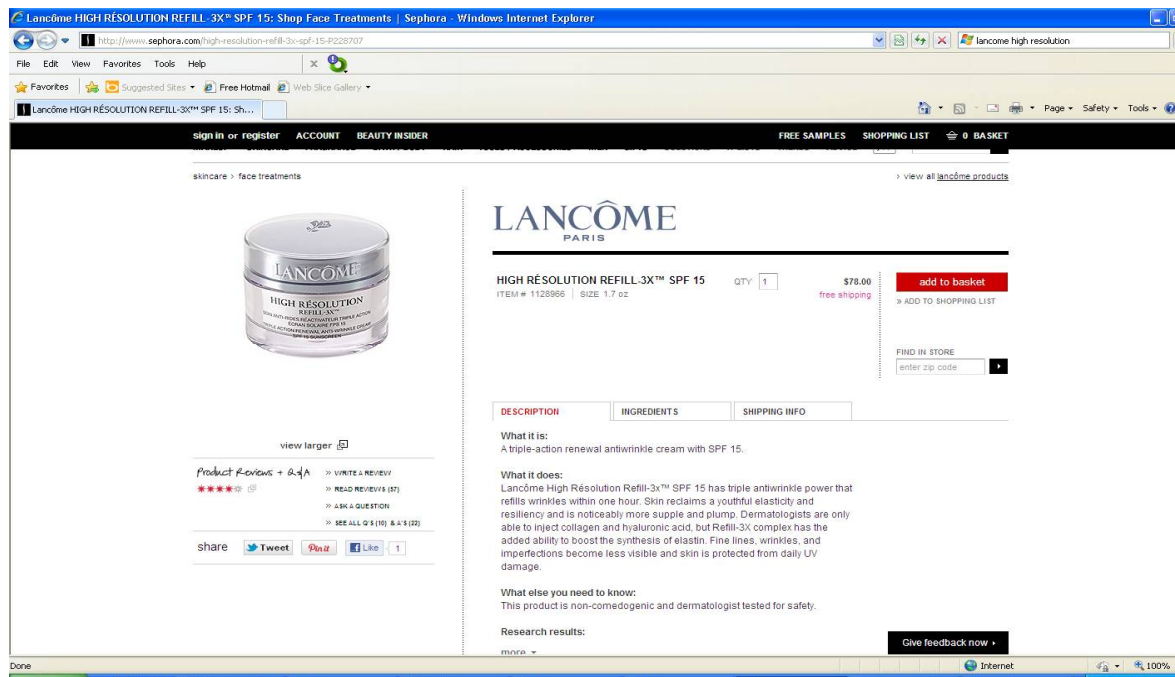


104. Not surprisingly, the National Advertising Division of the Council of Better Business Bureaus (“NAD”) recommended that L’Oreal USA modify certain advertising claims made for its High Resolution Refill-3X facial cream. Specifically, following its review of the evidence, which included clinical testing of

<sup>9</sup> In addition to not supporting actual results in humans, this reference to “in vitro testing on rice peptides and alfalfa extracts” is nonsensical. It provides consumers with no useful information with which they can assess the reliability of the “testing.” But, in keeping with Lancôme’s “hyperscience” deceptive approach to marketing, it appears to an unsuspecting consumer that the product claims are scientific – and therefore more credible.



skin hydration after the initial product application and consumer-usage data, NAD determined that the advertising claim “Refill Wrinkles in Just One Hour” conveys the message from Lancôme is that wrinkles will be substantially reduced, if not completely eliminated, in a very short period of time. The NAD noted that the evidence in the record addressed improvements in skin hydration, rather than the reduction or elimination of wrinkles. Accordingly, NAD recommended the advertiser discontinue the claim. Apparently, Lancôme has ignored the NAD’s finding and recommendation. The one hour claim is not limited to Lancôme’s advertisements on neimanmarcus.com - it remains a pervasive sales tactic:



105. Despite Lancôme’s claims to the contrary, upon information and belief, no ingredient in High Resolution has been proven to “refill wrinkles in one hour” or



to “help boost the synthesis of the three natural skin fillers: collagen, elastin and hyaluronic acid to help refill the impression of wrinkles.” Indeed, like the other Luxury Wrinkle Creams, and despite Lancôme’s suggestion to the contrary, the High Resolution line is nothing more than a mixture of widely used ingredients—none of which are unique as illustrated by the following chart:

Product Ingredient Chart for Lancôme High Resolution Refill-3x Triple Action  
Renewal Cream SPF 15

<b>Ingredient</b>	<b>Effect of Ingredient</b>	<b>Other Products Containing Ingredient</b>	<b>Notes</b>
Water	Solvent	Widespread	Used in virtually all products
Glycerin	Solvent, moisturizer	Widespread	Used in many of moisturizers
Cyclohexasiloxane	Skin conditioning agent and emollient	Widespread – Epionce Renewal Eye Cream; Aveeno Actice Naturals Positively Ageless Rejuvenating Serum; Kiehl’s Abyssine Cream plus SPF 23; Eucerin Q10 Anti-Wrinkle Sensitive Skin Lotion, SPF 15	Found in many of moisturizing and anti-aging products
Dimethicone	Emollient, skin conditioning and skin protecting	Widespread, including Roc Multi Correxion Lift Anti-Gravity Serum; L’Occitane Immortelle Eye Balm; Perricone MD Hypoallergenic Firming Eye Cream	Used in products varying from moisturizing and anti-aging to shampoos and hair dyes

Cyclopentasiloxane	Solvent, emollient and skin conditioning agent	Widespread, including Roc Multi Correxion Lift Anti-Gravity Serum; Olay Definity Highly Defined Anti-Aging Illuminating Eye Treatment; Neutrogena Clinical Anti-Aging Booster Serum; L'Oreal Dermo-Expertise Age Perfect Pro-Calcium Eye Cream	Used in products including foundations, moisturizers, anti-aging, conditioners and deodorant
Mineral Oil	Makeup remover, emollient, moisturizer	Widespread	Found in a large variety of beauty products
Ammonium Polyacryloyldimethyl Taurate	Emulsifier and hydrophilic thickener	Widespread, including L'Oreal Alfalfa Collagen Rebuilder; Lancome Genifique Youth Activating Concentrate; L'Oreal Revitalift Clinical Repair 10 Laser Corrector, SPF 20; Garnier Nutritioniste Ultra-Lift Intensive Deep Wrinkle Day Cream, SPF 30	Found largely in facial moisturizers, anti-aging, sunscreen, foundations and facial cleansers
Ethylhexyl Palmitate	Emollient, skin conditioning agent and fragrance	Redpoint Age Management Essentials; Skin Biology CP Night Eyes; The Body	Used largely in makeup including eye shadow, lip gloss, lipstick and moisturizers

		Shop Aloe Body Butter; Avon Mark the Big Fix 15-in-1 Benefits Balm	
Cetyl Alcohol	Surfactant, emulsifier, emollient and thickener	AminoGenesis Cocoon Total Body Emollient; Burt's Bees Naturally Ageless Skin Refining Daily Facial Cleanser; Perricone MD Hypoallergenic Firming Eye Cream; Olay Total Effects 7-in-1 Anti-Aging Moisturizer, Fragrance Free	Found in moisturizers, conditioners, anti-aging products, and hair dye
Triethanolamine	pH adjuster, surfactant and fragrance	Perricone MD Face Finishing Moisturizer; Azure Hydropeptide Serum; Olay Definity Highly Defined Anti-Aging Illuminating Eye Treatment; Olay Professional Pro-X Age Repair Lotion, SPF 30	Found in mascara, moisturizers, anti-aging products and styling gel
Methylsilanol/Silicate Crosspolymer	Skin conditioning	Lancome Genifique Youth Activating Eye Concentrate; L'Oreal Dermo Expertise Wrinkle De-Crease Collagen Filler Eye Illuminator; L'Oreal Revitalift	Found in sunscreen and anti-aging products

		Deep Set Wrinkle Collagen Filler Lip Duo; Yves Saint Laurent Top Secrets Flash touch Wake-up Eyecare; La Roche-Posay Rosaliac UV Fortifying Anti- Redness Moisturizers, Fragrance Free, SPF 15	
Tocopherol	Antioxidant	Widespread, examples include Darphin Stimulskin Plus Eye Contour Cream; Burt's Bees Evening Primrose Overnight Crème; L'Occitane Immortelle Eye Balm; Almay Smart Shade Anti-Aging Makeup, SPF 20	Found in moisturizers, anti- aging products and makeup
Sodium Hyaluronate	Skin conditioning	HydroPeptide Power Lift; Prana Active Vitamin Lift Serum; L'Oreal Dermo- Expertise Defense, Eye; Olay Definity Highly Defined Anti-Aging Illuminating Eye Treatment; Avon Anew Clinical Derma Full Facial Filling Cream	Found in moisturizers, anti- aging products and facial cleansers, among others

Medicago Satva (Alfalfa) Extract	Plant extract for antioxidant purposes	L'Oreal Dermo- Expertise Collagen Remodeler; Avon Anew Clinical Derma Full Facial Filling Cream; Lancome High Resolution Eye Refill-3x; Avon Anew Age Transforming Foundation; Lancome High Resolution Night Refill-3x	Found in moisturizers, anti- aging products, facial cleansers and around the eye creams
Hydrolyzed Rice Protein	Antistatic and skin conditioning	Vichy Laboratories LiftActive CxP Eyes Anti- Wrinkle Eyelid Lifting Care; Almay Smart Sahde Anti-Aging Makeup, SPF 20; Garnier Nutritioniste Ultra-Lift Anti- Wrinkle Firming Eye Cream; Garnier Nutritioniste Ultra-Lift Intensive Deep Wrinkle Day Cream, SPF 30	Found in shampoo, anti-aging products, moisturizers and conditioners
Acetyl Trifluoromethyl phenyl Valylglycine	Skin Conditioning Agent	L'Oreal Paris Advanced Revitalift Eye Cream; L'Oreal Paris Revitalift Deep Set Wrinkle Eye Duo' L'Oreal Advanced	Found in anti-aging products

		Revitalift Night Cream, Anti-Wrinkle and Firming Moisturizer; L'Oreal Paris Deep Set Wrinkle Repair SPF Day Lotion	
Adenosine	Skin Conditioning Agent	Vichy Laboratories LiftActiv Retinol HA Eyes Total Anti-Wrinkle Renovating Care; Lancome High Resolution Eye Refill-3X; L'Oreal Revitalift Complete Anti-Wrinkle And Firming Moisturizer Day Lotion, SPF 30	Found in anti-aging products and moisturizers
Peg-8 Isostearate	Emulsifier and surfactant	Skin Recharge Visibly Smoothing and Renewing; AmorePacific Treatment Cleansing Oil Face & Eyes; Oscar Blandi Capri Sun Shield Spray	Found mainly in hair spray, styling gel and makeup remover; very little information on other products
Polyglyceryl-3 Methylglucose Distearate	Emulsifier, surfactant and emollient	Eucerin Redness Relief Anti-Aging Serum; Garnier Nutritioniste Ultra-Lift Intensive Deep Wrinkle Day Cream, SPF 30; Simple Kind to Skin Replenishing	Found in moisturizers, anti-aging products, tanning oils and makeup

		Rich Moisturizer	
Poly C10-30 Alkyl Acrylate	Emulsifier	L'Oreal Sublime Sun Advanced Sunscreen SPF 50; Lancome Renergie Lift Volumetry; Lancome Secret de vie Nuit Ultimate Cellular Reviving Night Crème; Nutritioniste Skin Review Anti-Sun Damage Daily Moisture Lotion SPF 28; Skin Recharge Visibly Smoothing and Renewing	
Nylon-66	Opacifying agent, thickener and viscosity controlling	L'Oreal Age Perfect Pro- Calcium Eye and Lip Cream for Mature Fragile Skin; L'Oreal Dermo Expertise Age Perfect Pro- Calcium Eye Cream; Garnier Nutritioniste Skin Renew Anti-Sun Damage Daily Moisture Lotion, SPF 28; L'Oreal Dermo Expertise Wrinkle De- Crease with Boswelox Eye Cream; Garnier Nutritioniste Skin Renew Daily Regenerating Moisture Cream	Found in moisturizers, anti- aging products and makeup



Talc	Abrasive, absorbent, anti-caking agent, bulking agent, opacifying agent, skin protectant	Widespread, including Dalton Cosmetics Mirage Face Blending Powder; La Roche-Posay Anthelios 50 Daily Anti-Aging Primer with Sunscreen; Avon Clinical Advanced Wrinkle Corrector	Used in a variety of cosmetic products including makeup, soap, creams and powders
Silica Dimethyl Silylate	Anti-caking agent, bulking agent, emollient	Widespread, including L'Oreal Dermo Expertise Wrinkle De-Crease Collagen Filler Eye Illuminator; L'Oreal Skin Genesis Multi-layer Cell Strengthening Intensive Treatment, Night Complex; Revlon Age Defying Moisturizing Concealer; Avon Beyond Color Line Softening Mousse Foundation; Blistex Deep Renewal Anti-Aging Lip Protectant	Found in makeup, hair dyes and anti-aging products
Dimethiconol	Emollient	Widespread, including L'Oreal Dermo-Expertise Wrinkle De-Crease Collagen Filler Eye Illuminator; StriVectin New	

		StriVectin Age Shield; Avon Anew Clinical Derma Full Facial Filling Cream; Olay Total Effects 7-in-1 Anti-Aging Moisturizer, Fragrance Free; Olay Total Effects Anti-Aging Vitamin Comple, Fragrance Free	
Limonene	Fragrance; solvent	Widespread, including L'Oreal Youth Code; Chanel Rectifiance Instense Serum Re-texturizing Line Corrector; Clarins Aqua Essence Morning Energy; Darphin Hydraskin Moisturizing Serum	Found in moisturizing treatments as well as shampoos and conditioners
Xanthan Gum	Emulsifier, skin conditioner, thickener	Widespread, examples including Burt's Bees Radiance Serum; Suki Color Tinted Active Moisturizer; Aviva Organics Face Crème; Kinerase Clear Skin Regulating Mask	
Manganese Gluconate	Skin conditioning	L'Oreal Bare Naturale Concealer; L'Oreal Dermo Expertise Wrinkle	Found in anti-aging products, moisturizers and makeup

		De-Crease with Boswelox Eye Cream; L'Oreal Revitalift Deep Set Wrinkle Collagen Filler Lip Duo	
Linalool	Fragrance	Widespread, including L'Oreal Revitalift Clinical Repair 10 Laser Corrector, SPF 20; Sephora Collection Super Loaded Age Defy Serum; Dermalogica Antioxidant Hydrating Mist; L'Occitane Almond concentrate	Found in Moisturizers and Anti-Aging products as well as hair dyes and conditioners
Cholesterol	Moisturizer, emulsifier	L'Oreal Dermo Expertise Defense; Elizabeth Arden Ceramide Plump Perfect Firming Mask; Revlon Age Defying with DNA Advantage Cream Makeup; Dove Pro-Age Rich Night Cream; Roc Retinol Actif Pur Anti-Wrinkle Night Treatment	Found in moisturizers, anti-aging products, sunscreen and makeup
Alpha-Isomethyl Ionone	Fragrance	L'Oreal Revitalift Clinical Repair 10 Laser Corrector, SPF 20; L'Oreal Revitalift Complete Anti-Wrinkle &	Found in products ranging from fragrances to moisturizers, anti-aging products, styling gel and hair dye

		Firming Moisturizer Day Lotion, SPF 30; Dior Capture Totale Multi- Perfection Intensive Night Restorative; L'Occitane Immortelle Precious Cream	
Acrylates Copolymer	Adhesive, antistatic	Awake Stardom Escalte Lash Mascara; Gessator Eye Treatment Restoring Gel/Uplifting Action; April Rain Night Renew; Avon Mark Matte Chance Mattifying Lotion; L'Oreal Ideal Balance QuickStick Balancing Foundation	Found in products ranging from hair dye to nail polish, body wash and mascara
Sorbitan Palmitate	Lipophilic, emulsifier	Sephora Brand Face Moisturizing Cream, Dry Skin; Avitalin Vitality Phytocell Complex; Terralina Facial Moisturizer	Found in moisturizers, hand creams and other beauty products
Geraniol	Fragrance	Clairins Advanced Extra-Firming Eye Contour Cream; L'Oreal Revitalift Clinical Repair 10 Laser Corrector, SPF 20; Dermalogica	Found in moisturizers, fragrances, anti-aging products and hair dyes

		Antioxidant Hydrating Mist; Garnier Nutritioniste Skin Renew Overnight Regenerating Cream; Dior Capture Totale Multi-Perfection Intensive Night Restorative	
Disodium Stearoyl Glutamate	Skin conditioning, emulsifier	CoverGirl Simply Ageless Anti-Aging Foundation; Maybelline Instant Age Rewind Cream Foundation; Garnier Nutritioniste Ultra-Lift Intensive Deep Wrinkle Day Cream, SPF 30;	Found in sunscreen, makeup and anti-aging products
Disodium EDTA	Chelating agent	La Roche-Posay Redermic Eyes Intensive Daily Anti- Wrinkle Firming Fill-in Care; L'Oreal Dermo Expertise Defense, Eye; Perricone MD Advanced Eye Area Therapy; Olay Total Effects 7-in-1 Anti-Aging Moisturizer, Fragrance Free	Found in moisturizers, anti-aging products, conditioners and facial cleansers
Butylphenyl Methylpropionat	Fragrance	L'Oreal EverPure Sulfate Free Color Care System; Meaningful	Found in hair dyes, conditioners, moisturizers, shampoos and fragrances

		Beauty Firming Serum; Aveena Daily Moisturizing Cream	
Citronellol	Fragrance	Products include Clarins Advanced Extra-Firming Eye Contour Cream; Lancome Genifique Youth Activating Concentrate; Lancome High Resolution eye Refill 3X; Dior Capture Totale Multi-Perfection Intensive Night Restorative	Used in moisturizers, hair dyes and anti-aging products, among others
Coumarin	Fragrance	Products include Burt's Bees Carrot Nutritive Day Cream; L'Oreal Paris Age Perfect Pro-Calcium Radiance Perfector Sheer Tint Moisturizer; Dr. Andrew Weil for Origins Night Health Bedtime Balm; L'Oreal Revitalift Deep Set Wrinkles Lotion	Found in a variety products such as fragrances, body washes, shampoo and moisturizers
Phenoxyethanol	Preservative	Widespread, including L'Occitane Immortelle Eye Balm; Olay Definity High Defined Anti-Aging	Found in moisturizers, cleansers, makeup and anti-aging products

		Illuminating Eye Treatment; L'Oreal Dermo Expertise Age Perfect Pro-Calcium Eye Cream	
Ethylparaben	Fragrance and Preservative	Widespread, including L'Oreal Dermo Expertise Defense, Eye; La Roche-Posay Active C Anti-Wrinkle Dermatological Treatment for Eyes; Olay Total Effects 7-in-1 Anti-Aging Moisturizer, Fragrance Free; Olay Total Effects Anti-Aging Vitamin Complex, Fragrance Free	Found in many skin care products such as skin cream, body lotion and deodorant
Imidazolidinyl Urea	Preservative	La Roche-Posay BioMedic Retinol 30; L'Oreal Dermo Expertise Wrinkle De-Crease with Boswelox Eye Cream; Olay Anti-Wrinkle Mature Skin Night Firming Cream; Olay Total Effects 7-in-1 Anti-Aging Moisturizer Plus Cooling Hydration; Avon Anew Clinical Thermafirm Face Lifting Cream	Found in moisturizers, anti-aging products and makeup
Methylparaben	Preservative	Widespread,	Widely used in moisturizers



	and antifungal	including L'Oreal Dermo-Expertise Defense; Olay Total Effects Eye Transforming Cream; Skin Doctor's Retanew; Amino Genesis Cocoon	and anti-aging products
Fragrance	Fragrance	Widespread use in various products	

### **RENERGIE**

106. Upon information and belief, Lancôme launched its Renergie line in or about late 2010. Renergie Lift Volumetry Night costs \$110.00 for 2.6 oz; Renergie Lift Volumetry Neck costs \$90.00 for 1.7 oz; Renergie Lift Volumetry Lifting and Reshaping Cream costs \$90.00 for 1.7 oz; Renergie Lift Volumetry Eye costs \$67.00 for 0.5 oz; Renergie Anti-Wrinkle and Firming Treatment Cream costs \$82.00 for 1.7 oz; Renergie Eye Anti-Wrinkle and Firming Treatment Cream costs \$62.00 for 0.5 oz; Renergies Night costs \$98.00 for 2.5 oz; Renergie Oil Free Lotion costs \$82.00 for 1.7 oz; and Renergie Microlift Eve R.A.R.E- Intense Repositioning Eye Lifter costs \$72.00 for 0.5 oz..

107. Plaintiff Fabend purchased Lancôme's Renergie product for approximately \$90.00 on or about late 2010 or early 2011 from the Lancôme counter at the Union Square Macy's department store in San Francisco, California. Plaintiff Fabend was induced to purchase the Renergie product after reading Lancôme product advertisements in magazines, including, but not limited to

Glamour, and after listening to false and misleading promises of product efficacy from a Lancôme salesperson at Macy's department store.

108. According to Lancôme, Renergie is a:

unique treatment that addresses both wrinkles and lost firmness: Rénergie. Experience a rediscovery of skin's looks of youthful strength and resilience. A unique firming and anti-wrinkle effect helps fortify skin to make it visibly plumper and smoother. This Double Performance treatment has been shown to dramatically decrease the appearance of fine lines and wrinkles as it fortifies skins firmness.

109. Similarly, Lancôme claims that Renergie Night is:

From the laboratories of Lancome Research comes a unique treatment that addresses both wrinkles and lost firmness: Rénergie. Experience a rediscovery of skin's looks of youthful strength and resilience. A unique firming and anti-wrinkle effect helps fortify skin to make it visibly plumper and smoother. This Double Performance treatment has been shown to dramatically decrease the appearance of fine lines and wrinkles as it fortifies skin's firmness.

Results:


Overnight, surface cell renewal is accelerated so skin looks re-energized, and well-rested. Day after Day, fine lines and wrinkles appear less noticeable as if they were virtually "slept away". Over time, skin is visibly tighter, smoother, younger looking.

110. According to Lancôme's advertisements, Renergie can also "re-organize the collagen network to create a firmer support structure" and "provide tautening of the skin's support structure to deliver a visible volumetric action." Lancôme claims further that the facial "angle of youth" between the chin and the neck is improved by 9.5 degrees.":

**BREAKTHROUGH:  
A FACELIFT WITHOUT SURGERY**

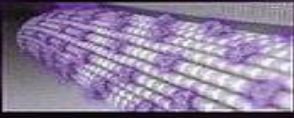
Inspired by Growth Factors, Lancôme's revolutionary GF-Volumetry Complex reinforces the cells' communication to redefine facial contours for a slimmer jawline and lifted cheeks.

**A UNIQUE COMBINATION**



**GF-Volumetry Complex**  
Promotes synthesis, storage and distribution of essential Growth Factors

+




**R.A.R.E.™ Technology**  
Re-organises the collagen network to create a firmer support structure

---


**DRAMATIC RESULTS:  
SHARPLY REDEFINED FACIAL CONTOURS**

**1** The facial angle of youth between the chin and neck is improved by 9.5 degrees\*.



**2** Facial contours reshaped with slimmer jawline and lifted cheeks\*.

Front profile

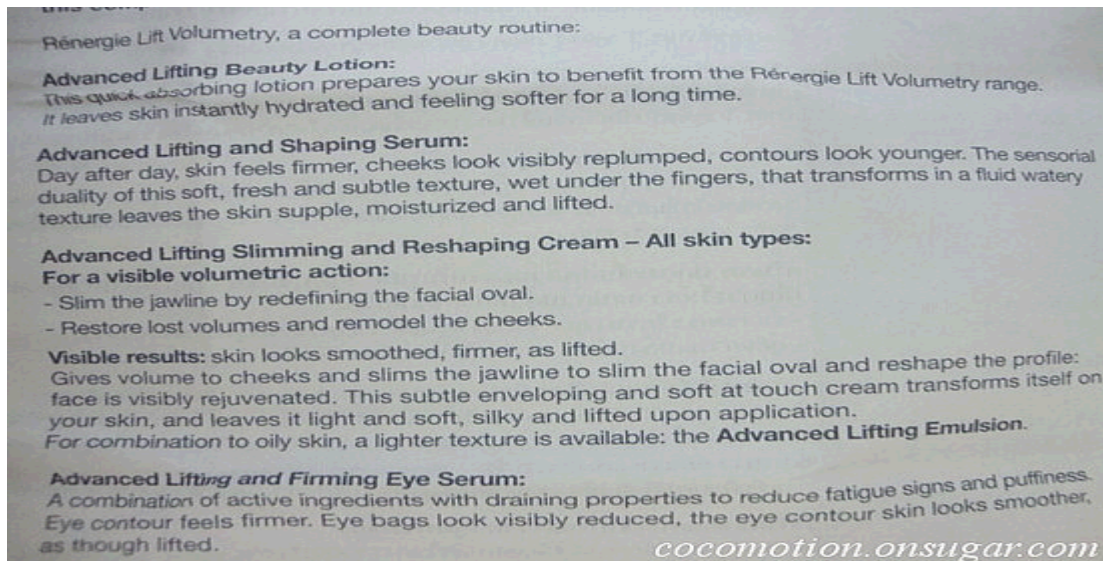


Cheeks appear more taut and lifted	84%
Wrinkles and fine lines look diminished	67%
Skin feels firmer	87%
Facial contours are visibly more defined	71%

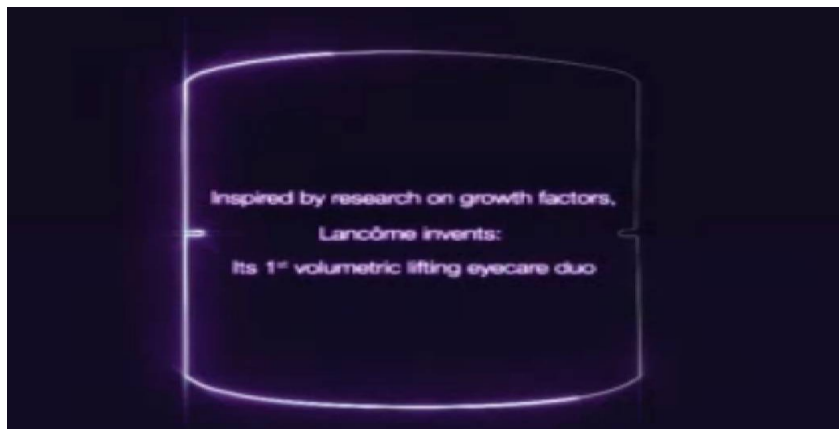
\*% agreement consumer test, face serum on 103 women after 4 weeks of use. \* Tested on 40 Asian women. Serum applied twice daily for 4 weeks.

111. Many of Lancôme products, including Renergie, are also sold on the Home Shopping Network (“HSN”). According to one sales segment for Renergie on HSN, among other benefits, it actually “re-contours the skin,” “re-firms” and the skin “bounces back into shape.” That video can be accessed at: <http://www.youtube.com/watch?v=5EZU41ql5bw>.

112. And according to this Lancôme product insert, Renergie can actually “slim the jawline by redefining the facial oval,” “restore lost volumes and remodel the cheeks,” and “reshape the profile”:



113. Again, Lancôme has produced a promotional video touting the specific benefits of using Rénergie:





114. Predictably, Lancôme further claims that Renergie’s efficacy is backed by scientific evidence. For example, in a television advertisement for Renergie, Lancôme claims that it is based on “20 years of research to reconstruct the skin”: available at: <http://www.youtube.com/watch?v=7ryvnolYmyo>

115. In reality, nothing in Renergie has been proven to “erase wrinkles” or “re-organize the collagen network of the skin” in humans such that it would repair or reverse the signs of aging.



116. Indeed, like the other Luxury Wrinkle Creams, and despite Lancôme's suggestion to the contrary, none of the ingredients in, or results of, Renergie are unique:

<b>Ingredient</b>	<b>Effect of Ingredient</b>	<b>Other Products Containing Ingredient</b>	<b>Notes</b>
Water	Solvent	Widespread	Used in virtually all products
Glycerin	Solvent Moisturizer	Widespread	Used in many of moisturizers
Hydrogenated Polyisobutene	Emollient and Moisturizer	Widespread – examples include Grassroots Research Pomegranate Super Antioxidant Cream; Shiseido Bio Performance Super Restoring Cream	
Palm Oil	Emollient, plant extract	L'Oreal Nutrissime Reactivating Dry Skin Cream; Chanel Precision Eye Tonic Roll-On; Dermalogica Renewal Lip Complex; Garnier Total Comfort Day Cream	
Dimethicone	Emollient, skin conditioning and skin protecting	Widespread, including Roc Multi Correxion Lift Anti-Gravity Serum; L'Occitane Immortelle Eye Balm; Perricone MD Hypoallergenic Firming Eye Cream	Used in products varying from moisturizing and anti-aging to shampoos and hair dyes
Cetearyl Alcohol	Surfactant, emulsifier, hydrophilic thickener	Perricone MD Hypoallergenic Firming Eye Cream; La Roche-Posay BioMedic Retinol 30; Olay Professional Pro-X Age Repair Lotion; L'Occitane Immortelle Very Precious Eye Serum	Found in moisturizers, anti-aging products, conditioner and other beauty products
Squalane	Antistatic, moisturizer, antioxidant, emollient	Avon Anew Clinical Derma Full Facial Filling Cream; Olay Regenerist Advanced Anti-Aging Eye Roller;	Found in moisturizers, anti-aging products, and



		Neutrogena Visibly Firm Night Cream, Active Copper Formula	makeup
Alcohol Denat.	Solvent, skin drying, preservative	Widespread, including Clarins Line Prevention Multi-Active Serum; Clairins Shaping Facial Lift; Dior Age-Defense Refining Fluid SPF 8; L'Oreal Collagen Moisture Filler Day Lotion; L'Oreal Advanced Revitalift Mask	Used in makeup, lotions, fragrances, skin care and hair care products
PEG-100 Stearate	Surfactant, emollient, emulsifier	Avon Anew Rejuvenating Night Revitalizing Cream; Dermalogica Daily Defense Block; La Roche-Posay Redermic + Eyes Intensive Daily Anti-Wrinkle Firming Fill-in Care; Olay Definity Highly Defined Anti-Aging Illuminating Eye Treatment	Found in moisturizers, anti-aging products, and other beauty products
Beeswax	Emollient and Emulsifier	Widespread	Used in a variety of products
Glyceryl Stearate	Emollient and emulsifier	Clarins Super Restorative Decollete and Neck Concentrate; Clinique Repairwear Uplifting Firming Cream; L'Oreal Youth Code Dark Spot Correcting and Illuminating Day Cream Moisturizer; Neutrogena Naturals Multi-Vitamin Nourishing Moisturizer	Found in a variety of beauty products
Shea Butter	Moisturizing Emollient	Widespread	Found in many of moisturizing products
Silica	Abrasive, absorbent, anti-caking agent, bulking agent	The Body Shop Moringa Body Scrub; Dermophysiologique Optyma 24 Hour Eye Contour Cream; IQ Derma Essentials ResorEyes Firming Eye Cream;	Found largely in makeup and shampoos

		Redpoint Age Management Essentials	
Polyacrylamide	Binding agent; film-forming agent, anti-static	L'Occitane Immortelle Eye Balm; Olay Total Effects 7-in-1 Anti-Aging Moisturizer, Fragrance Free; Olay Total Effects Anti-Aging Vitamin Complex, Fragrance Free; Clarins Advanced Extra-Firming Eye Contour Cream	Found in moisturizers, anti-aging products, sunscreens and other beauty products
Yellow 6	Pigment	Widespread, examples include Chanel Sublimage Essential Regenerating Cream; Estee Lauder Idealist Even Skintone Illuminator; Serious Skincare Firmaface	
Red 4	Pigment	Widespread – found in Yves Saint Laurent Forever Youth Liberator Serum; Clarins Vital Light; Prada Body Cream	
Yellow 4	Pigment	Widespread	Mostly found as a food colorant
C13-14 Isoparaffin	Thickener, solvent	L'Occitane Immortelle Eye Balm; Olay Total Effects 7-in-1 Anti-Aging Moisturizer, Fragrance Free; Olay Total Effects Anti-Aging Vitamin Complex, Fragrance Free; Clairins Advanced Extra-Firming Eye Contour Cream	Found in moisturizers, anti-aging products, sunscreen and other beauty products
Hydrolyzed Lupine Protein	Anti-static, UV absorber	Dior Capture R60/80 First Wrinkles Smoothing Eye Cream; Terralina Facial Moisturizer; My Blend Time Resistant Eye Cream	
Hydrolyzed Linseed Extract	Skin conditioning, sunscreen	My Blend Day Cream; Clairins Intensive Age-Control Brightening	

		Program; My Blend Night Cream; Dior Diorskin Nude Natural Glow Hydrating Makeup	
Sodium Cocoyl Glutamate	Surfactant	Hydropeptide Cleansing Gel; Vichy Neovadiol Lumiere Soin Densifieur Embellisseur Tein; Clarins Gentle Foaming Cleanser with Shea Butter; Clarins Multiregenerante Extra Firming Tightening Lift Botanical Serum	Found in many of skin cleansers
Phenoxyethanol	Preservative, fragrance	L'Occitane Immortelle Eye Balm; Olay Definity Highly Defined Anti-Aging Illuminating Eye Treatment; Vichy Laboratories LiftActive CxP Eyes Anti-Wrinkle Eyelid Lifting Care; L'Oreal Dermo Expertise Age Perfect Pro Calcium Eye Cream	Found in moisturizers, anti-aging products, cleansers and other beauty products
Yeast Extract	Skin conditioning	Clarins Super Restorative Total Eye Concentrate; Olay Regenerist Advanced Anti-Aging Wrinkle Revolution Complex; L'Oreal Revitalift Complete Anti-Wrinkle and Firming Moisturizer Day Lotion; Avon Anew Age-Transforming Foundation, SPF 15	Found in moisturizers, anti-aging products and other beauty products
Adenosine	Skin conditioning agent	Vichy Laboratories LiftActiv Retinol HA Eyes Total Anti-Wrinkle Renovating Care; Lancome High Resolution Eye Refill-3X; L'Oreal Revitalift Complete Anti-Wrinkle And Firming Moisturizer Day Lotion, SPF 30	Found in anti-aging products and moisturizers
Acetyl	Anti-aging	Chanel Precision Ultra	Found in anti-

Tetrapeptide-9	peptide	Correction Line Repair Intensive Anti-Wrinkle Concentrate; La Prairie Skin Caviar Crystalline Conentre; Renergie Microlift R.A.R.E. Superior Lifting Cream SPF 15	aging products
Argania Spinosa Kernel Extract	Skin conditioning	Garnier Nutritioniste Ultra-Lift Anti-Wrinkle Firming Eye Cream; Garnier Nutritioniste Ultra-Lift Intensive Deep Wrinkle Day Cream; Garnier Nutritioniste Ultra-Lift Daily Targeted Wrinkle Treatment;	Found in moisturizers, anti-aging products, sunscreens and other beauty products
Vigna Aconitifolia Seed Extract	Skin conditioning	Vichy Neovadiol Lumiere Soin Densifur Embellisseur Teint	Found in moisturizers, anti-aging products and other conditioning products
Polyurethane-2	Film former	Garnier Ultra-Lift Pro Gravity Defying Cream	Found in many of mascaras
Polymethyl Methacrylate	Film former	Clinique Repairwear Lift Firming Night Cream; Clairins Vital Light Day SPF 15 Illuminating Anti-Aging Cream; L'Oreal Collagen Moisture Filler Day Lotion; L'Oreal Revitalift Deep Set Wrinkle Repair Day Lotion	Found in makeup, sunscreen and anti-aging products
Dimethiconol	Emollient	Widespread, including L'Oreal Dermo-Expertise Wrinkle De-Crease Collagen Filler Eye Illuminator; StriVectin New StriVectin Age Shield; Avon Anew Clinical Derma Full Facial Filling Cream; Olay Total Effects 7-in-1 Anti-Aging Moisturizer,	

		Fragrance Free; Olay Total Effects Anti-Aging Vitamin Comple, Fragrance Free	
Limonene	Fragrance; solvent	Widespread, including L'Oreal Youth Code; Chanel Rectifiante Instense Serum Re-texturizing Line Corrector; Clarins Aqua Essence Morning Energy; Darphin Hydraskin Moisturizing Serum	Found in moisturizing treatments as well as shampoos and conditioners
Pentylene Glycol	Humectant, solvent, antimicrobial	Estee Lauder Time Zone Line Wrinkle Reducing Lotion SPF 15; Olay Professional Pro-X Age Repair Lotion, SPF 30; Olay Regenerist Advanced Anti-Aging UV Defense Regenerating Lotion, SPF 50; Elizabeth Arden Bye Lines, Anti-Wrinkle Serum	Found in moisturizers, anti-aging products and sunscreens
Benzyl Alcohol	Preservative, solvent, fragrance	Aveeno Active Naturals Intense Relief Repair Cream; Neutrogena Norwegian Formula Body Moisturizer Daily Therapeutic Lotion; Olay Pro X Discoloration Fighting Concentrate; Olay Advanced Healing Intensive Lotion	Found in moisturizers, shampoos, hair dyes and conditioners
Capryloyl Salicylic Acid	Skin conditioning	La Roche-Posay Mela-D Serum; Garnier Nutritioniste Skin Renew Anti-Sun Damage Daily Moisture Lotion, SPF 28; L'Oreal Dermo Expertise Nutri-Pure Soothing Toner; L'Oreal Skin Genesis Wet Cleansing Towelettes; Garnier Nutritioniste Ultra-Lift Anti-Wrinkle Firming Eye Cream	Found in moisturizers, anti-aging products and cleansers
Alpha-	Fragrance	L'Oreal Revitalift Clinical	Found in

isomethyl Ionone		Repair 10 Laser Corrector, SPF 20; L'Oreal Revitalift Deep Set Wrinkle Collagen Filler Lip Duo; Dior Capture Totale Multi-Perfection Intensive Night Restorative; L'Oreal Advanced Revitalift Night Cream, Anti-Wrinkle And Firming Moisturizer	fragrances, moisturizers, anti-aging products and other beauty products
Geraniol	Fragrance	Clarins Advanced Extra-Firming Eye Contour Cream; Clarins Super Restorative Total Eye Concentrate; L'Oreal Revitalift Clinical Repair 10 Laser Corrector, SPF 20; Garnier Nutritioniste Skin Renew Overnight Regenerating Cream; L'Oreal Revitalift Complete Anti-Wrinkle and Firming Moisturizer Day Lotion, SPF 30	Found in moisturizers, fragrances, anti-aging products and other beauty products
Carbomer	Emulsifier	L'Occitane Immortelle Eye Balm; L'Oreal Dermo Expertise Defense, Eye; Olay Definity Highly Defined Anti-Aging Illuminating Eye Treatment; Avon Anew Clinical Derma Full Facial Filling Cream	Found in moisturizers, anti-aging products and other beauty products
Cetearyl Glucoside	Moisturizer, emulsifier	Olay Professional Pro-X Age Repair Lotion, SPF 30; L'Occitane Immortelle Very Precious Eye Serum; Olay Total Effects Advanced Anti-Aging Skincare UV Moisturizer Plus, Fragrance Free, SPF 15; Neutrogena Anti-Oxidant Age Reverse Night Cream	Found in moisturizers, anti-aging products and sunscreens
Methylparaben	Preservative and	Widespread, including	Widely used in

	antifungal	L'Oreal Dermo-Expertise Defense; Olay Total Effects Eye Transforming Cream; Skin Doctor's Retanew; Amino Genesis Cocoon	moisturizers and anti-aging products
Tetrasodium EDTA	Chelating agent	Olay Sensitive Moisture Therapy Beauty Fluid for Sensitive Skins; Neutrogena Light Night Cream; Neutrogena Oil Free Moisturizer, Sensitive Skin; Olay Active Hydrating Beauty Fluid	Found in moisturizers, body washes, cleansers and other beauty products
Octadecenedioic Acid	Whitening agent, emulsifier	Aveeno Active Naturals Positively Radiant Triple Boosting Serum; Elizabeth Arden Prevage Body Total Transforming Anti-Aging Moisturizer	Found in anti-aging products, skin lightening products, moisturizers and lotions
Laureth-7	Surfactant, emulsifier	L'Occitane Immortelle Eye Balm; Olay Total Effects 7-in-1 Anti-Aging Moisturizer, Fragrance Free; Olay Total Effects Anti-Aging Vitamin Complex, Fragrance Free; Clarins Advanced Extra-Firming Eye Contour Cream; Olay Age Defying Daily Renewal Cream	Found in moisturizers, anti-aging products, and other beauty products
Hexyl Cinnamal	Fragrance	L'Oreal Wrinkle De-Crease SPF 15 Lotion with Boswelox; L'Oreal Paris Collagen Moisture Filler Day Lotion; L'Occitane Verbena Verbena Body Lotion	Found in moisturizers, conditioners, hair dyes and other beauty products
Fragrance	Fragrance	Widespread use in various products	
Sodium Benzoate	Preservative	Clarins Lift-Fermete Extra Firming Body Cream; Estee Lauder Re-Nutriv Intensive Lifting Lotion; L'Oreal Youth Code Youth	Found in moisturizers, shampoos, conditioners and other beauty



		Regenerating Skincare Serum Intense Daily Treatment; L'Oreal Youth Code Day/Night Cream Moisturizer	products
Sodium Dehydroacetate	Preservative	Estee Lauder Revitalizing Supreme Global Anti-Aging Crème; Clinique Moisture Surge Tinted Moisturizer, SPF 15; Avon Anew Reversalist Renewal Serum; Clarins Hydraquench Cream-Mask, Dehydrated Skin	Found in makeup, sunscreen and other beauty products

### **ABSOLUE**

117. Upon information and belief, Lancôme's Absolué Precious Cells collection was launched in October of 2009. The cost of the Absolué Night Precious Cells Advanced Regenerating and Reconstructing Night Cream is \$165.00 for 1.7 oz; the Absolué Ultimate Night Bx Intense Night Recovery and Replenishing Serum is \$165.00 for 1 oz; the Absolué Precious Cells Advanced Regenerating and Reconstructing Cream SPF 15 Sunscreen is \$165.00 for 1.6 oz ; and the Absolué L'Etrait is \$350.00 for 1.7 oz.

118. According to Lancôme-usa.com, Absolué Advanced regenerating cream is:

A powerful combination of unique ingredients – Reconstruction Complex and Pro-Xylane™, a patented scientific innovation – has been shown to improve the condition around the stem cells and stimulate cell regeneration to reconstruct skin to a denser quality.<sup>1</sup> Results: Immediately, skin feels soft, hydrated. Within 7 days, it's proven, skin recovers the visible signs of younger skin.<sup>2</sup> Skin feels strengthened and looks healthier. Within 4 weeks, wrinkles appear reduced, skin feels refined and polished. See significant deep wrinkle reduction in UV damaged skin, clinically proven.<sup>3</sup> *<sup>1</sup>In-vitro test. <sup>2</sup>Based on results from a consumer test on women with UV damaged skin. <sup>3</sup>Reduction in crow's feet and laugh lines in a 4-week clinical evaluation on UV damaged skin.* DERMATOLOGIST-TESTED FOR SAFETY

Significant deep wrinkle reduction in UV-damaged skin, increases density, improves radiance.

119. Absolve is also purportedly based on a “decisive breakthrough in stem cells” such that “within 7 days skin recovers the visible signs of younger skin”:



120. Lancôme further claims that Absolve Eye Precious Cells is:

A powerful combination of unique ingredients – Reconstruction Complex and Pro-Xylane™, a patented scientific innovation – has been shown to improve the condition around the stem cells and stimulate cell regeneration to reconstruct skin to a denser quality.<sup>1</sup> Results: Immediately, the eye contour appears smoother and more radiant. Within 7 days, signs of fatigue are minimized and the appearance of puffiness is reduced. Within 4 weeks, density is improved, skin feels soft and looks healthier. The youthful look of the eye contour is restored.

<sup>1</sup>*In-vitro test.*

OPHTHALMOLOGIST-TESTED  
DERMATOLOGIST-TESTED FOR SAFETY

121. Lancôme represents on Nordstrom.com that Absolve Night Precious Cells:

Restores density—Reduces wrinkles—Regenerates radiance.  
Fundamental discovery on stem cells.

Epidermis' most precious cells are the stem cells. Lancôme's research has made a decisive breakthrough by revealing the crucial role of stem cells' environment on their ability to restore density.

Exclusive innovation from Lancôme: A powerful combination of unique ingredients—Reconstruction Complex and Pro-Xylane™—has been shown to improve the condition around the stem cells, and stimulate cell regeneration to reconstruct skin to a denser quality.<sup>1</sup> This indulgently rich cream melts effortlessly into the skin and helps support skin's natural ability to repair itself at night.

Results: Upon waking, skin looks rested, soft and supple, and feels wrapped in a veil of comfort. Day 7, skin feels strengthened. Day 28, wrinkles appear reduced. Skin feels satiny smooth.

Dermatologist-tested for safety. 1.7 oz.

<sup>1</sup>In-vitro test.

122. According to Lancôme-usa.com, Absolue L'Extrait has the following “hyperscientific” benefits:

Through a state-of-the-art biotechnological extraction process comes a line of Lancôme Rose native cells. Fermogenesis™, an exclusive process, preserves their capacities intact to perpetuate their integrity. Fermogenesis™ provides each cell with a gentle, unstressed growth environment, at its own rhythm, preserving its own metabolic rate and all of its regenerative potential.

Absolue L'Extrait was evaluated during a clinical study on several age-defining parameters\*\*. At eleven weeks of use, a significant improvement in each of these major signs was noted\*\*\*.

\*\*Forehead wrinkles, frown lines, crow's feet, under eye wrinkles, nasolabial fold, wrinkles around the mouth.

\*\*\*Based on a clinical study on 41 women.

123. Lancôme further claims about Absolue L'Extrait:

An exceptional elixir exists. It contains up to 2 million Lancôme Rose native cells.

Experience Lancôme's revolutionary skincare innovation and our most powerful regenerating ingredient, Lancôme Rose Native Cells.

Extracted from the heart of the rare and resilient Lancôme Rose using an exclusive, state-of-the-art biotechnological process, these native cells are proven to extend their own exceptional properties to enhance skin's regenerative potential\*.

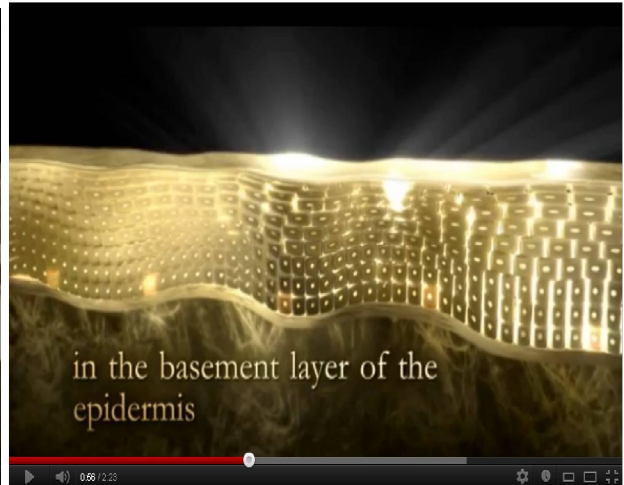
Each jar of Absolue L'Extrait contains up to 2 million of these precious native cells. Absolue L'Extrait helps reveal firmer, more elastic, more radiant skin for fascinating beauty.

Absolue L'Extrait. A master piece of regeneration.

\*Based on in-vitro test results.

124. Once again, Lancôme has produced promotion videos. The video for Absolue L'Extrait (available at <http://www.youtube.com/watch?v=QhORyX6UeWI>) promises:







With age, the number of stem cells  
and their daughter cells does not decrease

But their activity is altered

With age, the key components of  
their environment are altered

Skin regeneration is modified

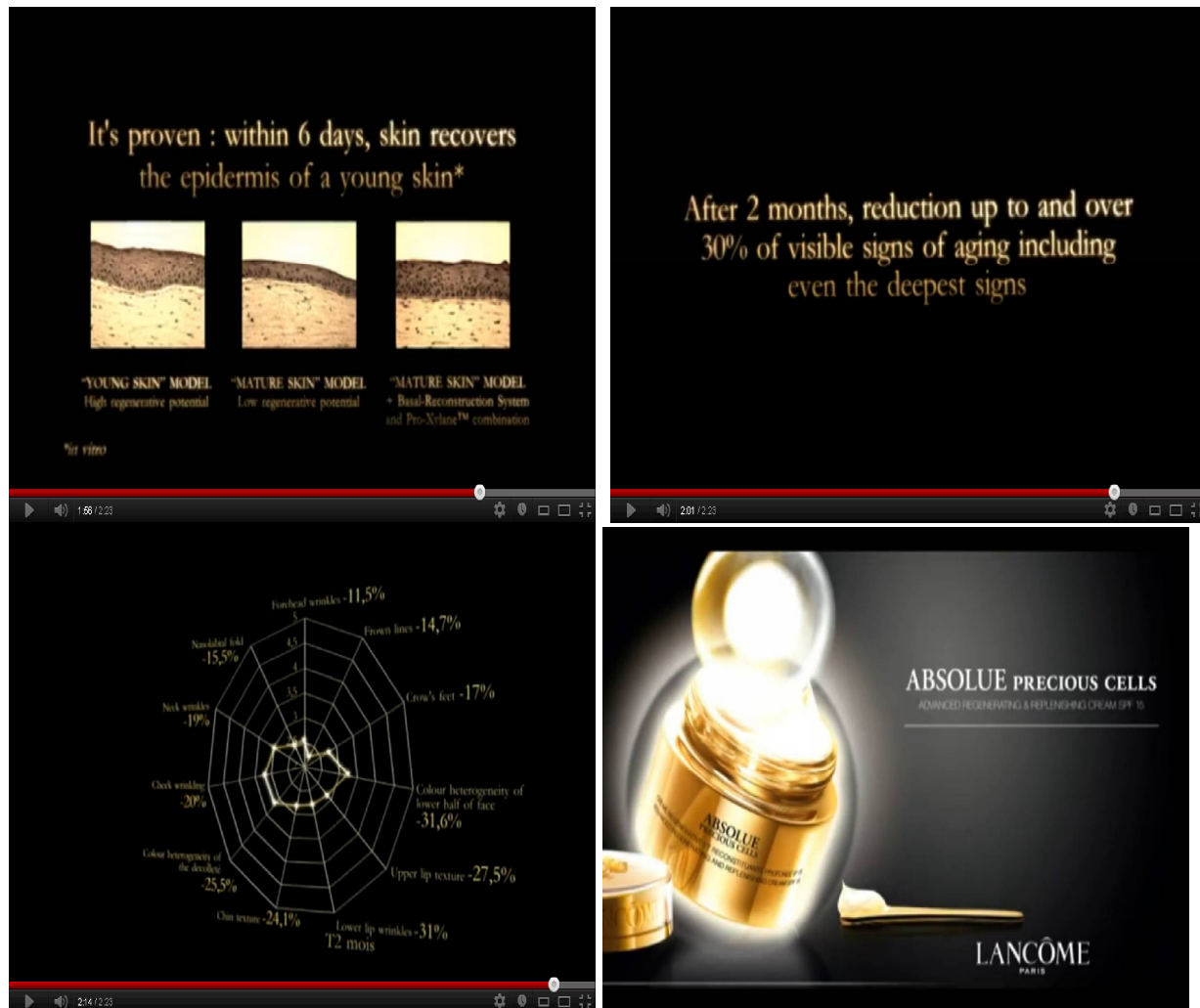
Lancôme invents  
**ABSOLUE**  
PRECIOUS CELLS

Recreate optimal stem cells' environment  
to relaunch skin's regeneration power

"YOUNG SKIN" MODEL  
High regenerative potential

"MATURE SKIN" MODEL  
Low regenerative potential

"MATURE SKIN" MODEL  
+ Basal-Reconstruction System  
and Pro-Xylane™ combination



125. Despite these promises of stem cell rejuvenation, nothing in the Absolue products can provide the results promised by Lancôme. Indeed, like the other Luxury Wrinkle Creams, and despite Lancôme's suggestion to the contrary, the Absolue line is nothing more than a mixture of widely used ingredients—none of the ingredients in Absolue are unique as illustrated by the following chart:

Product Ingredient Chart for Lancome Absolute Night Precious Cells Advanced Regenerating and Restoring Night Cream

Ingredient	Effect of Ingredient	Other Products Containing Ingredient	Notes
Water	Solvent	Widespread	Used in



			virtually all products
Glycerin	Solvent Moisturizer	Widespread	Used in many moisturizers
Cyclohexasiloxane	Skin conditioning agent and Emollient	Widespread – Epionce Renewal Eye Cream; Aveeno Actice Naturals Positively Ageless Rejuvenating Serum; Kiehl's Abyssine Cream plus SPF 23; Eucerin Q10 Anti-Wrinkle Sensitive Skin Lotion, SPF 15	Found in many moisturizing and anti-aging products
Mineral Oil	Makeup remover, Emollient, Moisturizer	Widespread	Found in a large variety of beauty products
Hydrogenated Polyisobutene	Emollient and Moisturizer	Widespread – examples include Grassroots Research Pomegranate Super Antioxidant Cream; Shiseido Bio Performance Super Restoring Cream; Dr. Brandt r3p Eye	
Butyrospermum Parkii (Shea Butter)	Moisturizing Emollient	Widespread	Found in many moisturizing products
Poly C10-30 Alkyl Acrylate	Emulsifier	L'Oreal Sublime Sun Advanced Sunscreen SPF 50; Lancome Renergie Lift Volumetry; Lancome Secret de vie Nuit Ultimate Cellular Reviving Night Crème; Nutritioniste Skin Review Anti-Sun Damage Daily Moisture Lotion SPF	

		28; Skin Recharge Visibly Smoothing and Renewing	
Sucrose Stearate	Emulsifier	L'Oreal Plentitude RevitaClean Cold Cream; Dove Deep Moisture Facial Lotion with SPF 15; L'Oreal Wrinkle De-Crease Collagen Filler Wrinkle Reducer	Used in moisturizers, cleansers and anti- aging products
Aluminum Starch Octenylsuccinate	Non-aqueous viscosity increasing agent and anti-caking agent	Garnier Fresh Quenching Moisturizing Fluid; Givenchy Ange Ou Demon; L'Oreal Wrinkle D-crease Collagen Filler; Yves Rocher Bio Specific Pore Expert Pore Refining Moisturizer	
Beeswax	Emollient and Emulsifier	Widespread	
Ci 77891/Titanium Dioxide	Ultraviolet light absorber and sunscreen agent; pigment	Widespread	Found in wide range of beauty products including sunscreens, makeup, nail products and foot powders
Ci 19140/Yellow 5	Colorant	Widespread – example includes Yves Saint Laurent Forever Youth Liberator Serum; Peter Thomas Roth's Anti- Aging Cleansing Gel; Exuviance Age Reverse Eye Cream	
Ci 14700/Red 4	Colorant	Widespread – found in Yves Saint Laurent Forever Youth Liberator Serum;	

		Clarins Vital Light; Prada Body Cream	
Ci 77019/Mica	Colorant	Widespread	Found in many eyeshadows, foundations, blushes and lipsticks
Hydroxypropyl Tetrahydropyrantriol	Skin conditioner	L'Oreal Skin Genesis Night Complex; Yves Saint Laurent Forever Youth Liberator Serum; Vichy Laboratories Neovadiol GF Day Densifying Re-Sculpting Care – Dry Skin; Garnier Nutritioniste Ultra-Lift Daily Targeted Wrinkle Treatment; Garnier Nutritioniste Ultra Lift Pro Gravity Defying Cream; L'Oreal Visible Lift Serum Absolute Advanced Age-Reversing Makeup	Found largely in anti-aging products
Sodium Polyacrylate	Absorbent, Emulsifier, Emollient, Viscosity Controlling and Increasing Agent, Skin Conditioning Agent	Widespread – found in Clarins Advanced Extra-Firming Eye Contour Cream; Eucerin Q10 Anti-Wrinkle Sensitive Skin Crème; Neutrogena Ageless Restoratives Instant Eye Reviver; Garnier Nutritioniste Skin Renew Overnight Regenerating Cream	Found in moisturizing and anti-aging products
Sodium Hydroxide	pH adjuster and buffering agent	Widespread – examples include Grassroots Research Pomegranate Super Antioxidant Cream;	Used in many cleansers

		Kinerase Clear Skin Regulating Mask; The Body Shop's Vitamin E Skin Care Line; La Roche-Posay Toleraine Dermo Cleanser	
Hydrolyzed Soy Protein	Skin Conditioning agent; Emulsifier; antistatic moisturizer	Widespread – examples include HydroPeptide Instant Peptide Mask; L'Oreal Revitalift Clinical Repair 10 Laser Corrector SPF 20; Dior Capture Totale One Essential Skin Boosting Super Serum; Intensive Skin-Rejuvenating Serum	
Sodium Cocoyl Glutamate	Surfactant/Cleansing Agent	Garnier Nutritioniste Ultra Lift Night Cream; Garnier Nutritioniste Ultra Lift Eye Cream; Vichy Laboratoires Neovadiol GF Night Densifying Re-Sculpting Care;	Found in body washes; toothpastes and handsoaps;
Stearic Acid	Emulsifier	Widespread	Found in moisturizing products and skin cleansers
Acetyl Trifluoromethylphenyl Valylglycine	Skin Conditioning Agent	L'Oreal Paris Advanced Revitalift Eye Cream; L'Oreal Paris Revitalift Deep Set Wrinkle Eye Duo' L'Oreal Advanced Revitalift Night Cream, Anti-Wrinkle and Firming Moisturizer; L'Oreal Paris Deep Set Wrinkle Repair SPF	Found in anti-aging products

		Day Lotion	
Adenosine	Skin Conditioning Agent	Vichy Laboratories LiftActiv Retinol HA Eyes Total Anti-Wrinkle Renovating Care; Lancome High Resolution Eye Refill-3X; L'Oreal Revitalift Complete Anti-Wrinkle And Firming Moisturizer Day Lotion, SPF 30	Found in anti-aging products and moisturizers
Vigna Aconitifolia Seed Extract	Skin Conditioning	Vichy Neovadiol Lumiere Soin Densifieur Embellisseur Teint; Lanchome Renergie Lift Volumetry Volumetric Lifting and Shaping Cream SPF 15; Jurlique Recovery Night Cream; Suki Balancing Day Lotion; Kasia Beautiful Health Skincare by Night;	
Ethylparaben	Fragrance and Preservative	Widespread	Found in many skin care products such as skin cream, body lotion and deodorant
Triethanolamine	pH balancer, buffering agent and surfactant	Widespread – examples include – Azure Hydropeptide Serum; Aminogenesis Cocoon Total Body Emollient; Olay Definity Highly Defined Anti-Aging Illuminating Eye Treatment; Vichy Laboratories LiftActive	

		CxP Eyes Anti-Wrinkle Eyelid Lifting Care	
Crithmum Maritimum Extract	Skin Conditioner, Emollient	DermaQuest Skin Therapy Glyco Hand and Body Cream; L'Oreal Advanced Revitalift Eye Day and Night Cream; Jurlique Purely Age-Defying Ultra Firm and Lift Cream; CVS Anti-Wrinkle and Firming Advanced Night Cream	Found in Anti-Aging and Moisturizing Products
Chlorphenesin	Preservative, Antimicrobial	Widespread – examples include L'Occitane Immortelle Eye Balm; Philosophy Miracle Worker Miraculous Anti-Aging Moisturizer; StriVectin New StriVectin Age Shield; Avon ANEW Clinical Derma Full Facial Filling Cream	Found in Anti-Aging and Moisturizing Products
Malus Domestica Stem Cell Culture	Antioxidant	Emerge Stem Cell Swiss Apple Serum; Goldfaden Stem Cell Serum; Avon Anew Genics Eye Treatment with YouthGen; Hydropeptide Hydrostem+6	Found mainly in anti-aging products
Dimethicone	Emollient, skin conditioning and skin protecting	Widespread, including Roc Multi Correxion Lift Anti-Gravity Serum; L'Occitane Immortelle Eye Balm; Perricone MD Hypoallergenic Firming Eye Cream	Used on products varying from moisturizing and anti-aging to shampoos and hair dyes
Dimethiconol	Emollient	Widespread, including	

		L'Oreal Dermo-Expertise Wrinkle De-Crease Collagen Filler Eye Illuminator; StriVectin New StriVectin Age Shield; Avon Anew Clinical Derma Full Facial Filling Cream; Olay Total Effects 7-in-1 Anti-Aging Moisturizer, Fragrance Free; Olay Total Effects Anti-Aging Vitamin Comple, Fragrance Free	
Limonene	Fragrance; solvent	Widespread, including L'Oreal Youth Code; Chanel Rectifiante Instense Serum Re- texturizing Line Corrector; Clarins Aqua Essence Morning Energy; Darphin Hydraskin Moisturizing Serum	Found in moisturizing treatments as well as shampoos and conditioners
Xanthan Gum	Emulsifier, skin conditioner, thickener	Widespread, examples including Burt's Bees Radiance Serum; Suki Color Tinted Active Moisturizer; Aviva Organics Face Crème; Kinerase Clear Skin Regulating Mask	
Pentaerythrityl Tetra Di-T-Butyl Hydroxyhydrocinnamate	Antioxidant	Widespread, examples including Tom Ford Illuminating Protective Primer; Exuviance Age Reverse; Aveeno Active Naturals Positively Ageless Youth Perfecting Moisturizer, Day, SPF 30; Roc	Primarily found in makeup and sunscreen



		Multi Correxion Lift Anti-Gravity Day Moisturizer, SPF 30	
Linalool	Fragrance	Widespread, including L'Oreal Revitalift Clinical Repair 10 Laser Corrector, SPF 20; Sephora Collection Super Loaded Age Defy Serum; Dermalogica Antioxidant Hydrating Mist; L'Occitane Almond concentrate	Found in Moisturizers and Anti- Aging products as well as hair dyes and conditioners
Oxothiazolidine Carboxylic Acid	Skin bleaching and conditioning agent	L'Oreal Youth Code Dark Spot Correcting and Illuminating Day Cream Moisturizer	
2-Oleamido-1.3- Octadecanediol	Unable to locate this chemical's purpose	Found in L'Oreal products, Kerastase Ciment Anti-Usure Conditioner; Vichy Homme Liftactive	
Fragrance	Fragrance	Widespread use in various products	
Acrylates/C10-30 Alkyl Acrylate Crosspolymer	Emollient, thickener	Widespread, including Dermalogica Extra Firming Booster; Olay Regenerist Advanced Anti-Aging Eye Roller; Eucerin Redness Relief Anti-Aging Serum; Olay Regenerist Eye Makeup Remover Plus Anti-Wrinkle Treatment	Used in Moisturizers and Anti- Aging products
Castanea Sativa (Chestnut) Seed Extract	Astringent	Found in Sisley Hydra- global Intense Anti- Aging Hydration; Melvita Moisturizing Cream; Kiehl's Facial Fuel Energizing Moisture Treatment for Men; L'Oreal Youth	

		Code Even Day Cream, SPF 30	
Methylparaben	Preservative and antifungal	Widespread, including L'Oreal Dermo-Expertise Defense; Olay Total Effects Eye Transforming Cream; Skin Doctor's Retanew; Amino Genesis Cocoon	Widely used in moisturizers and anti-aging products
Retinyl Palmitate	Skin Conditioning and Antioxidant	Widespread including Rare Minerals Skin Revival Night Treatment; Burt's Shea Butter Hand Repair Cream; Redpoint Age Management Essentials	
Citronellol	Fragrance	Products include Clarins Advanced Extra-Firming Eye Contour Cream; Lancome Genifique Youth Activating Concentrate; Lancome High Resolution eye Refill 3X; Dior Capture Totale Multi-Perfection Intensive Night Restorative	Used in moisturizers, hair dyes and anti-aging products, among others
Citral	Fragrance	Products include L'Occitane Shea Mom and Baby Cream; Crabtree and Evelyn Distillations Relaxing/Comforting Body Night Cream	Used in fragrances, lip glosses, moisturizers, among others
Coumarin	Fragrance	Products include Burt's Bees Carrot Nutritive Day Cream; L'Oreal Paris Age Perfect Pro-Calcium Radiance Perfector Sheer Tint	Found in a variety of products such as fragrances, body washes, shampoo and

		Moisturizer; Dr. Andrew Weil for Origins Night Health Bedtime Balm; L'Oreal Revitalift Deep Set Wrinkles Lotion	moisturizers
--	--	---	--------------

### **The Results of Lancôme's Deceptive Conduct**

126. Ignoring the lack of reliable scientific evidence to support its claims, Lancôme's pervasive marketing campaign leaves consumers with the impression that its products are uniquely able to provide certain age-negating effects on human skin.

127. Lancôme compounds this deception, by maintaining that all of the products and the promised results are based on years of research and reliable scientific study or data.

128. Lancôme hammers this point home with its repeated "hyperscientific" references to patents, research, labs, scientific studies, stem cells, and claims of scientific breakthroughs, among other things.

129. Lancôme does so despite its knowledge that its "scientific promises" are not statistically significant or replicable in actual use in humans.

130. Lancôme is in a position to actually know, or should know, that the promised results are not possible, *i.e.* its skin-care products cannot recreate or re-contour the skin. Lancôme fails to disclose that its products do not perform as promised.

131. Until such time as Lancôme ceases to continue to engage in deceptive advertising of the Luxury Wrinkle Creams, Plaintiff and the Class will continue to be deceived.

132. Lancôme's claims of efficacy and scientific studies are a material and important factor in its marketing campaign because Lancôme knows that consumers pay special attention to product claims that are supported by scientific data. Lancôme further knows that consumers can be duped into paying a higher price for products that purport to provide hyperscientific skin-correcting benefits.

133. Lancôme also is aware that, because of the aging population, consumers are increasingly susceptible to such deceptive marketing and advertising and that such marketing and advertising will continue to yield it ever-greater profits.

134. Indeed, it is for these precise reasons – increase sales and profits – that Lancôme intentionally engages in its deceptive marketing and advertising campaign.

135. Lancôme has succeeded in its deceit and has in fact enjoyed massive profits from its deceptive campaigns. Such enormous profits would not have occurred but for Lancôme's deceptive marketing and advertising campaign.

136. Lancôme charges a price premium of approximately \$60.00 more than other substantially identical L'Oreal wrinkle cream products. Indeed, Plaintiff and the Class would not have paid premium Lancôme prices for the Luxury Wrinkle

Creams had they known the truth regarding the deceptive marketing promises and the unreliable scientific data.

137. As a result, and because of, Lancôme's deceptive marketing, Plaintiff and the Class have been harmed in their purchases of the Luxury Wrinkle Creams.

138. Without knowing the truth as to the efficacy of the Luxury Wrinkle Creams, Plaintiff and the Class paid exorbitant premiums for Lancôme skin-care products.

### **CLASS ACTION ALLEGATIONS**

139. Plaintiff Fabend brings this class action pursuant to Fed. R. Civ. P. 23 (a), (b)(1), (b)(2), and (b)(3) on behalf of the following nationwide consumer class (the "Class"):

All purchasers of at least one of the Luxury Wrinkle Creams in the United States from date of product launch to the present (the "Class Period"). Excluded from the Class are Defendant, its parent, subsidiaries and affiliates, their directors and officers and members of their immediate families; also excluded are any federal, state or local governmental entities, any judicial officers presiding over this action and the members of their immediate family and judicial staff, and any juror assigned to this action.

140. Plaintiff Fabend also seeks to represent a subclass defined as all members of the Class who purchased Luxury Wrinkle Creams in California ("the California Subclass").

141. Members of the Class and the California Subclass are so numerous that their individual joinder herein is impracticable. Members of each of these classes number in the thousands. The precise number of Class members and their identities are unknown to Plaintiff at this time but will be determined through

discovery. Class members may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendants and third party retailers and vendors.

142. Common questions of law and fact exist as to all Class members and predominate over questions affecting only individual Class members. Common legal and factual questions include, but are not limited to:

- (a) whether Defendants were unjustly enriched by their conduct;
- (b) whether Defendants breached an express warranty made to Plaintiff and the Class;
- (c) whether Defendants advertise or market the Luxury Wrinkle Creams in a way that is false or misleading;
- (d) whether Defendants concealed from Plaintiff and the Class that its skin-care products do not provide the promised results;
- (e) whether, by the misconduct set forth in this Complaint, Defendants have engaged in unfair, fraudulent or unlawful business practices with respect to the advertising, marketing and sales of its Luxury Wrinkle Creams;
- (f) whether Defendants violated the New Jersey Consumer Fraud Act;
- (g) whether Defendants violated the California Consumer Legal Remedies Act, California Unfair Competition Law and California False Advertising Law;
- (h) whether, as a result of Defendants' misconduct as alleged herein, Plaintiff and Class members are entitled to restitution, injunctive and/or monetary relief and, if so, the amount and nature of such relief.

143. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct.

Plaintiff has no interests antagonistic to the interests of the other members of the Class. Plaintiff and all members of the Class have sustained economic injury arising out of Defendants' violations of common and statutory law as alleged herein.

144. Plaintiff is an adequate representative of the Class because her interest does not conflict with the interests of the Class members she seeks to represent, she has retained counsel competent and experienced in prosecuting class actions, and she intends to prosecute this action vigorously. The interests of Class members will be fairly and adequately protected by Plaintiff and her counsel.

145. The class mechanism is superior to other available means for the fair and efficient adjudication of the claims of Plaintiff and Class members. Each individual Class member may lack the resources to undergo the burden and expense of individual prosecution of the complex and extensive litigation necessary to establish Defendants' liability. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system presented by the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. In contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court on the issue of Defendants' liability. Class treatment of the liability issues will ensure that all claims and claimants are before this Court for consistent adjudication of the liability issues.



**COUNT I**  
**(Unjust Enrichment)**

146. Plaintiff repeats the allegations contained in the above paragraphs as if fully set forth herein.

147. Plaintiff brings this claim individually and on behalf of the members of the Class against Defendants.

148. Although there are numerous permutations of the elements of the unjust enrichment cause of action in the various states, there are few real differences. In all states, the focus of an unjust enrichment claim is whether the defendant was *unjustly* enriched. At the core of each state's law are two fundamental elements – the defendant received a benefit from the plaintiff and it would be inequitable for the defendant to retain that benefit without compensating the plaintiff. The focus of the inquiry is the same in each state. Since there is no material conflict relating to the elements of unjust enrichment between the different jurisdictions from which class members will be drawn, New Jersey law applies to those claims.

149. Plaintiff and Class members conferred a benefit on Defendants by purchasing one or more of the Luxury Wrinkle Creams.

150. Defendants have been unjustly enriched in retaining the revenues derived from Plaintiff's and Class members' purchases of the Luxury Wrinkle Creams, which retention under these circumstances is unjust and inequitable because Defendants misrepresented the efficacy of the Luxury Wrinkle Creams,

which caused injuries to Plaintiff and Class members because they paid a *price premium* due to the deceptive advertising and the mislabeling of the products.

151. Because Defendants' retention of the non-gratuitous benefit conferred on it by Plaintiff and Class members is unjust and inequitable, Defendants must pay restitution to Plaintiff and the Class members for its unjust enrichment, as ordered by the Court.

**COUNT II**  
**(For Breach of Express Warranty)**

152. Plaintiff repeats the allegations contained in the above paragraphs as if fully set forth herein.

153. Plaintiff brings this claim on behalf of the nationwide Class.

154. Defendants, as the designers, manufacturers, marketers, distributors, or sellers expressly warranted that the Luxury Wrinkle Creams would provide actual age-negating effects based upon scientific discoveries. Defendants further warranted that the promised results of using the Luxury Wrinkle Creams were supported by reliable scientific evidence when in fact they were not

155. In fact, Defendants knew or should know that the results promised for the Luxury Wrinkle Creams are not based on new and unique scientific discoveries and could never provide the results promised.

156. Plaintiff and Class Members were injured as a direct and proximate result of Defendants' breach because they paid a price premium due to the deceptive advertising and false promises of Defendants.

**COUNT III**  
**(Violation of the New Jersey Consumer Fraud Act)**

157. Plaintiff repeats the allegations contained in the above paragraphs as if fully set forth herein.

158. Defendants misrepresented that the Luxury Wrinkle Creams would provide actual age-negating effects based upon unique scientific discoveries, which they do not. Defendants further claimed that the promised results of using the Luxury Wrinkle Creams were supported by reliable scientific evidence when in fact they were not.

159. Defendants' affirmative misrepresentations constitute an unconscionable commercial practice, deception, fraud, false promise and/or misrepresentation as to the nature of the goods, in violation of the New Jersey Consumer Fraud Act.

160. Moreover, Defendants intentionally failed to disclose the truth behind the purported scientific discoveries and supporting clinical data; that is, the "hyperscience" upon which Lancôme relies to justify the price premiums for the Luxury Wrinkle Creams is nothing more than a sham. Indeed, no reliable scientific evidence exists to justify the representations of efficacy that Lancôme makes for its Luxury Wrinkle Cream products. Defendants' knowing and intentional omissions as described herein constitute a violation of the New Jersey Consumer Fraud Act.

161. Plaintiff and all Class members suffered an ascertainable loss caused by Defendants' misrepresentations because they were induced to purchase or paid a price premium due to the advertising, descriptors and labeling on the Luxury

Wrinkle Creams, when, in fact, those qualities did not exist. Simply put, Plaintiff and Class members paid for the advertised qualities of the Luxury Wrinkle Creams and did not get what they paid for.

**COUNT IV**  
**(Violation of the Consumers Legal Remedies Act (“CLRA”),**  
**Cal. Civ. Code §§ 1750, *et. seq.*)**

162. Plaintiff repeats the allegations contained in the foregoing paragraphs as if fully set forth herein.

163. Plaintiff Fabend brings this claim on behalf of the California Subclass under California law.

164. Cal. Civ. Code § 1770(a)(5) prohibits “[r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have.” Defendant violated this provision by representing that the Luxury Wrinkle Creams would provide actual age-negating effects based upon unique scientific discoveries. Lancôme further claimed that the promised results of using the Luxury Wrinkle Creams were supported by reliable scientific evidence when in fact they were not.

165. Cal. Civ. Code § 1770(a)(7) prohibits “[r]epresenting that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.” Defendants violated this provision by representing that the Luxury Wrinkle Creams provide additional benefits above those provided by less expensive creams or moisturizers.

166. Plaintiff Fabend and the California Subclass members suffered injuries caused by Defendants' misrepresentations because: (a) they were induced to purchase a product they would not have otherwise purchased if they had known that the promised efficacy results were untrue and that the Luxury Wrinkle Creams do not contain some unique ingredient derived from a new scientific discovery; and (b) they paid a price premium due to the mislabeling of the Luxury Wrinkle Creams.

167. On June 8, 2012, prior to the filing of this Complaint, a CLRA notice letter was served on Defendants which complies in all respects with California Civil Code §1782(a). Plaintiff Fabend sent Defendants a letter via certified mail, advising Defendants that they are in violation of §1770. Defendants were further advised that in the event the relief requested has not been provided within thirty (30) days, Fabend would seek to amend this Complaint to include a claim for damages. A true and correct copy of Plaintiff Fabend's CLRA letter is attached hereto as Exhibit A.

168. Wherefore, Plaintiff Fabend seeks restitution and injunctive relief for this violation of the CLRA.

**COUNT V**  
**(Violation of the Unfair Competition Law,**  
**Cal. Bus. & Prof. Code § 17200, *et seq.*)**  
**(Injunctive Relief and Restitution Only)**

169. Plaintiff repeats the allegations contained in the foregoing paragraphs as if fully set forth herein.

170. Plaintiff Fabend brings this claim on behalf of the California Subclass under California law.

171. Defendants are subject to the Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code § 17200, *et seq.* The UCL provides, in pertinent part: “Unfair competition shall mean and include unlawful, unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising ....”

172. Throughout the Class Period, Defendants committed acts of unfair competition, as defined by Cal. Bus. & Prof. Code § 17200, by using false and misleading statements to promote the sale of the Luxury Wrinkle Creams as described above.

173. Defendants’ conduct is unfair in that the harm to Plaintiff Fabend and the Class arising from Lancôme’s conduct outweighs the utility, if any, of those practices.

174. Defendants’ conduct, described herein, violated the “fraudulent” prong of the UCL by representing that the Luxury Wrinkle Creams would provide certain age-negating benefits, which they do not.

175. Plaintiff Fabend and California Subclass members have suffered injury and actual out-of-pocket losses as a result of Defendants’ violations because: (a) Plaintiff Fabend and the Class were induced to purchase products they would not have otherwise purchased had they known their true composition or benefits; and (b) Plaintiff Fabend and the Class were induced to pay substantially more for

Lancôme's Luxury Wrinkle Creams than they would have paid if their true characteristics had not be concealed or misrepresented.

176. Pursuant to Cal. Bus. & Prof. Code § 17203, Plaintiff and the Class are therefore entitled to: (a) an Order requiring Lancôme to cease the acts of unfair competition alleged herein; (b) an Order requiring corrective disclosures; (c) full restitution of all monies paid to Defendants as a result of their deceptive practices; (d) interest at the highest rate allowable by law; and (e) the payment of Plaintiff's attorneys' fees and costs pursuant to, *inter alia*, Cal. Civ. Proc. Code §1021.5.

**COUNT VI**  
**(Violation of the California False Advertising Law,  
Cal. Bus. & Prof. Code § 17500, *et seq.*)**

177. Plaintiff repeats the allegations contained in the above paragraphs as if fully set forth herein.

178. Plaintiff Fabend brings this claim on behalf of the California Subclass under California law.

179. California's False Advertising Law ("FAL"), Cal. Bus. & Prof. Code § 17500, *et seq.*, makes it "unlawful for any person to make or disseminate or cause to be made or disseminated before the public in this state, . . . in any advertising device . . . or in any other manner or means whatever, including over the Internet, any statement, concerning . . . personal property or services, professional or otherwise, or performance or disposition thereof, which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading."



180. Throughout the Class Period, Defendant committed acts of false advertising, as defined by Cal. Bus. & Prof. Code §17500, by using false and misleading statements to promote the sale of the Luxury Wrinkle Creams as described herein.

181. Defendants knew or should have known, through the exercise of reasonable care that the statements were untrue and misleading.

182. Defendants' actions in violation of Cal. Bus. & Prof. Code § 17500 were false and misleading such that the general public is and was likely to be deceived.

183. Plaintiff Fabend and California Subclass members suffered lost money or property as a result of Defendants' FAL violations because: (a) Plaintiff Fabend and the Class were induced to purchase a product they would not have otherwise purchased had they known its true composition; and (b) Plaintiff Fabend and the Class were induced to pay substantially more for Lancôme's Luxury Wrinkle Creams than they would have paid if their true characteristics had not be concealed or misrepresented.

184. Plaintiff Fabend brings this action pursuant to Cal. Bus. & Prof. Code § 17535 for injunctive relief to enjoin the practices described herein and to require Defendants to issue corrective disclosures to consumers.

**COUNT VII**  
**(Violation of the Consumer Fraud Laws of the Various States)**

185. Plaintiff repeats the allegations contained in the above paragraphs as if fully set forth herein.

186. By mislabeling and making false and deceptive efficacy claims regarding the Luxury Wrinkle Creams, Defendants have engaged in unfair competition or unlawful, unfair, misleading, unconscionable, or deceptive acts in violation of the state consumer statutes listed below.

187. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of ALA. CODE § 8.19-1, et seq.

188. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of ALASKA STAT. CODE § 45.50.471, et seq.

189. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of ARIZ. REV. STAT. § 44-1522, et seq.

190. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of ARK. CODE ANN. § 4-88-107, et seq.

191. Defendants have engaged in unfair competition or unfair or deceptive acts or practices or have made false representations in violation of CAL. COMPETITION LAW, BUS. & PROF. CODE § 17200, et seq.

192. Defendants have engaged in unfair competition or unfair or deceptive acts or practices or have made false representations in violation of COLO. REV. STAT. § 6-1-101, et seq.

193. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of CONN. GEN. STAT. § 42-110b, et seq.

194. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of DEL. CODE ANN. tit. 6, § 2511, et seq.

195. Defendants have engaged in unfair competition or unfair or deceptive acts or practices or made false representations in violation of D.C. CODE ANN. § 28-3901, et seq.

196. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of FLA. STAT. ANN. § 501.201, et seq.

197. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of GA. CODE ANN. §10-1-392, et seq.

198. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of HAW. REV. STAT. § 480, et seq.

199. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of IDAHO CODE § 48-601, et seq.

200. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of 815 ILL. COMP. STAT. 505/1, et seq.

201. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of IND. CODE ANN. § 24-5-0.5-1, et seq.

202. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of IOWA CODE §714.16, et seq.

203. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of KAN. STAT. § 50-623, et seq.

204. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of KY. REV. STAT. ANN. § 367.110, et seq.

205. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of LA. REV. STAT. § 51:1404, et seq.

206. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of ME. REV. STAT. tit. 5, § 205-A, et seq.

207. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of MD. CODE. ANN., COM. LAW § 13-101, et seq.

208. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation MASS. GEN LAWS ch. 93A, §1, et seq.

209. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of MICH. COMP. LAWS § 445.901, et seq.

210. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of MINN. STAT. § 8.31, et seq.

211. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of MISS. CODE ANN. § 75-24-3, et seq.

212. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of MO. REV. STAT. § 407.010, et seq.

213. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of MONT. CODE ANN. § 30-14-101, et seq.

214. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of NEB. REV. STAT. § 59-1601, et seq.

215. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of NEV. REV. STAT. 598.0903, et seq.

216. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of N.H. REV. STAT. ANN. § 358-A:1, et seq.

217. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of N.M. STAT. ANN. § 57-12-1, et seq.

218. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of N.Y. GEN. BUS. LAW § 349, et seq.

219. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of N.C. GEN. STAT. § 75-1.1, et seq.

220. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of N.D. CENT. CODE § 51-15-01, et seq.

221. Defendants have engaged in unfair competition or unfair or deceptive acts or practices or made false representations in violation of OKLA. STAT. tit. 15, § 751, et seq.

222. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of OR. REV. STAT. § 646.605, et seq.

223. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of 73 PA. CONS. STAT. § 201-1, et seq.

224. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of R.I. GEN. LAWS § 6-13.1-1, et seq.

225. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of S.C. CODE § 39-5-10, et seq.

226. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of S.D. CODIFIED LAWS § 37-24-1, et seq.

227. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of TENN. CODE ANN. § 47-18-101, et seq.

228. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of TEX. BUS. & COM. CODE ANN. § 17.41, et seq.

229. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of UTAH CODE. ANN. § 13-11-1, et seq.

230. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of VT. STAT. ANN. tit. 9, § 2451, et seq.

231. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of VA. CODE ANN. § 59.1-196, et seq.

232. Defendants have engaged in unfair competition or unfair, deceptive or fraudulent acts or practices in violation of WASH. REV. CODE § 19.86.010, et seq.

233. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of W. VA. CODE § 46A-6-101, et seq.

234. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of WIS. STAT. § 100.18, et seq.

235. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of WYO. STAT. ANN. § 40-12-101, et seq.

236. The acts, practices, misrepresentations and omissions by Defendants described above, and Defendants' dissemination of deceptive and misleading

advertising and marketing materials concerning the Luxury Wrinkle Creams, constitutes unfair competition and unfair or deceptive acts or practices within the meaning of each of the above-enumerated statutes, because each of these statutes generally prohibits deceptive conduct in consumer transactions

237. Defendants violated each of these statutes by making certain false or misleading efficacy promises regarding the Luxury Wrinkle Creams.

238. Plaintiff and Class Members were injured as a direct and proximate result of Defendants' unfair, deceptive and/or unconscionable acts and practices, because: (a) Plaintiff and the Class were induced to purchase a product they would not have otherwise purchased had they known its true composition; and (b) Plaintiff and the Class were induced to pay substantially more for the Luxury Wrinkle Creams than they would have paid if their true characteristics had not be concealed or misrepresented.

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, seeks judgment against Defendants, as follows:

A. For an order certifying the nationwide Class and the California Subclass under Rule 23 of the Federal Rules of Civil Procedure and naming Plaintiff as Class Representative and her attorneys as Class Counsel to represent the Class members;

B. For an order declaring that Defendants' conduct violates the statutes referenced herein;



C. For an order finding in favor of the Plaintiff, the nationwide Class, and the California Subclass on all counts asserted herein;

D. For an order awarding compensatory, treble, and punitive damages in amounts to be determined by the Court and/or jury;

E. For prejudgment interest on all amounts awarded;

F. For an order of restitution and all other forms of equitable monetary relief;

G. For injunctive relief as pleaded or as the Court may deem proper; and

H. For an order awarding Plaintiff, the nationwide Class and the California Subclass their reasonable attorneys' fees and expenses and costs of suit.

CARELLA, BYRNE, CECCHI,  
OLSTEIN, BRODY & AGNELLO  
Attorneys for Plaintiff

By: /s/ James E. Cecchi  
JAMES E. CECCHI

Dated: June 8, 2012

Of Counsel:

Paul M. Weiss  
Richard J. Burke  
Julie D. Miller  
COMPLEX LITIGATION GROUP, LLC  
513 Central Avenue  
Suite 300  
Highland Park, Illinois 60035  
(847) 433-4500

Jonathan Shub  
Scott A. George  
SEEGER WEISS LLP  
1515 Market Street, Suite 1380

Philadelphia, Pennsylvania 19102  
(215) 564-2300

*Attorneys for Plaintiff*

**JURY DEMAND**

Plaintiff hereby demands a trial by jury on all claims so triable.

CARELLA, BYRNE, CECCHI,  
OLSTEIN, BRODY & AGNELLO  
Attorneys for Plaintiff

By: /s/ James E. Cecchi  
JAMES E. CECCHI

Dated: June 8, 2012

Of Counsel:

Paul M. Weiss  
Richard J. Burke  
Julie D. Miller  
COMPLEX LITIGATION GROUP, LLC  
513 Central Avenue  
Suite 300  
Highland Park, Illinois 60035  
(847) 433-4500

Jonathan Shub  
Scott A. George  
SEEGER WEISS LLP  
1515 Market Street, Suite 1380  
Philadelphia, Pennsylvania 19102  
(215) 564-2300

*Attorneys for Plaintiff*